

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

DG 21-050
Summer 2021 Cost of Gas

Staff Data Requests - Set 1

Date Request Received: 3/19/21
Request No. Staff 1-1

Date of Response: 3/29/21
Respondent: Deborah Gilbertson

REQUEST:

Ref. Bates p. 11-12.

Please provide a copy of Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities- Keene Division (Liberty-Keene or Company)'s CNG RFP, all bid responses and the Company's new CNG supply contract. Explain how the bids were evaluated, names and titles of evaluators and role of each, and provide a copy of the scoring matrix, if used.

RESPONSE:

Please see Confidential Attachment Staff 1-1.1 for the new CNG supply contract, Attachment Staff 1-1.2 for the CNG RFP, Confidential Attachment Staff 1-1.3.xlsx for the bid evaluation spreadsheet, and Confidential Attachments Staff 1-1.4 through Staff 1-1.10 for the RFP bid responses.

The bids were evaluated on the basis of cost and conformity to the parameters of the RFP. The least cost conforming bid was selected. The Company conducted several meetings in anticipation of the current CNG contract expiry date of July 2021. The initial kick-off meeting took place June 25, 2020, to begin the process of securing a CNG supply renewal for the Monadnock Plaza.

In attendance at the June 25, 2020 meeting were:

Norman Gallagher, Director, Dispatch and Control;
Greg Clement, Manager, Dispatch and Control;
Steve Rokes, Manager, Keene Operations;
William Clark, Sr. Director, Business Development;
Mark Stevens, Business Development Professional;
Chico DaFonte, VP, Regulated Infrastructure;
Rich MacDonald, VP, Operations;
Robert Mostone, Director, Gas Operations;
Bill Killeen, Director, Energy Procurement;
Paul Maffa, Sr. Buyer, Energy Procurement;

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Deborah Gilbertson, Sr. Manager, Energy Procurement

The Energy Procurement team subsequently sent out a Request for Proposal seeking CNG supply bids. The RFP went out on July 17, 2020, and bids were due back on August 7, 2020. Upon request from bidders, the Company granted an extension until August 14, 2020.

On August 26, 2020, a meeting was held to review the findings of the bid proposals. In attendance at the August 26, 2020, meeting were:

Greg Clement, Manager, Dispatch and Control;
Steve Rokes, Manager, Keene Operations;
William Clark, Sr. Director, Business Development;
Mark Stevens, Business Development Professional;
Andrew Mills, Engineer III;
Rich MacDonald, VP, Operations;
Paul Maffa, Sr. Buyer, Energy Procurement;
Deborah Gilbertson, Sr. Manager, Energy Procurement

During that meeting, the Company reviewed and chose a short list of suppliers. Subsequently the Business Development Group along with Engineering provided a list of questions and qualifications to be understood and answered by the potential short listed suppliers.

On October 28, 2020, a final meeting was held to review the findings and select a winning bid. In attendance at the October 28, 2020, meeting were:

Greg Clement, Manager, Dispatch and Control;
Steve Rokes, Manager, Keene Operations;
William Clark, Sr. Director, Business Development;
Mark Stevens, Business Development Professional;
Andrew Mills, Engineer III;
Rich MacDonald, VP, Operations;
Steve Mullen, Director, Rates and Regulatory Affairs;
Bill Killeen, Director, Energy Procurement;
Paul Maffa, Sr. Buyer, Energy Procurement;
Deborah Gilbertson, Sr. Manager, Energy Procurement

Confidential Attachment Staff 1-1.1 (CNG contract) contains third party pricing and other information that is “confidential, commercial, or financial information” that is protected from disclosure by RSA 91-A:5, IV, and presumed to be confidential in cost of gas proceedings pursuant to Puc 201.06(a)(11). A redacted version of this document will be provided.

Confidential Attachment Staff 1-1.3.xlsx (bid evaluation spreadsheet) also contains pricing and other information related to the CNG contract and to the RFP responses of the winning bidder and of the other bidders that is “confidential, commercial, or financial information” that is protected from disclosure by RSA 91-A:5, IV, and presumed to be confidential in cost of gas proceedings pursuant to Puc 201.06(a)(11). The Company will not provide a redacted version of

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this document because it is not possible to meaningfully redact the confidential information from this live Excel spreadsheet.

Confidential Attachments Staff 1-1.4 through Staff 1-1.10 (responses to RFP) contains the identity of the bidders, their pricing and other information responsive to the RFPs, all of which is “confidential, commercial, or financial information” that is protected from disclosure by RSA 91-A:5, IV, and presumed to be confidential in cost of gas proceedings pursuant to Puc 201.06(a)(11). The Company will also not provide redacted versions of these documents because redacted versions will not provide any useful information due to the extent of the redactions required.

Therefore, pursuant to RSA 91-A:5, IV and Puc 203.08(d) and Puc 201.01.06(a)(11)(g) (protecting “responses to data requests related to a. through f. above”), the Company has a good faith basis to seek confidential treatment of the above information and asserts confidentiality pursuant to those rules.

CNG MASTER AGREEMENT

This CNG Master Agreement (this "CMA") is entered into as of January 6, 2021 by and between Xpress Natural Gas LLC, a Delaware limited liability company with an office located at 300 Brickstone Square, Suite 1005, Andover, MA 01810 (together with its subsidiaries and affiliates "Seller"), and Liberty Utilities (EnergyNorth Natural Gas) Corp. with an office at 15 Buttrick Road, Londonderry, NH 03053 ("Buyer"). Each of Buyer and Seller may be referred to herein as a "Party" and collectively as the "Parties."

Summary of Base Terms (hereinafter referred to collectively as the "Base Terms")

Buyer	Liberty Utilities (EnergyNorth Natural Gas) Corp.								
Seller	Xpress Natural Gas LLC								
Service Location	Keene, New Hampshire								
Delivery Point	Meter installed immediately prior to Buyer's flanged pipe connection.								
Effective Date	Effective Date will be ____ July 1__, 2021.								
Delivery Period	The Initial Term of the agreement is three (3) years from the Effective Date. The agreement will automatically renew for an additional one-year Renewal Term on the same terms and conditions, unless terminated by either Party on written notice delivered not less than 6 months prior to the expiration of the then-current Delivery Period. .								
Natural Gas Product	Natural Gas delivered by the Seller shall be in compressed form (~3,600 psi) and decompressed prior to the Delivery Point.								
Purchase Price	Price per MMBTU for natural gas shall be the sum of: (i) Commodity Gas; plus (ii) Marketer's Basis charges applicable to the purchase of the Commodity Gas; plus (iii) Service Adder.								
Demand Charges	In addition to the Purchase Price Buyer shall pay to the Seller a Demand charge equal to [REDACTED] annually. The Demand Charge shall be payable in 12 monthly installments from the Effective Date.								
Commodity Gas	Unless otherwise selected, Commodity Gas shall default to the index price (per MMBtu) [REDACTED] [REDACTED] [REDACTED] [REDACTED] by notifying XNG at least 10 days prior to the start of such month. The Commodity Gas will remain at such index pricing until Liberty notifies XNG, not later than 10 days prior to the start of next month, to resume default pricing								
Marketer's Basis Charges	A 'per MMBTU' fee for pipeline capacity paid to the capacity-holders supplying Commodity Gas to the terminal. The Marketer's Basis Charge shall be [REDACTED] for the term of this Agreement for Algonquin Citygate pricing. The charge per MMBTU will be [REDACTED] when Liberty chooses the Millennium Index price.								
Service Adder	[REDACTED] per MMBTU.								
Contract Quantity	Contract Quantity serves as the expected invoice quantities for deliveries each month. Actual volumes will vary due to weather and normal operations within the course of business.								
	<table><tr><td>Month</td><td>MMBTU</td><td>Month</td><td>MMBTU</td></tr><tr><td>January</td><td>3,400</td><td>July</td><td>-1,200</td></tr></table>	Month	MMBTU	Month	MMBTU	January	3,400	July	-1,200
Month	MMBTU	Month	MMBTU						
January	3,400	July	-1,200						

	<table><tr><td>February</td><td>3,200</td><td>August</td><td>--1,000</td></tr><tr><td>March</td><td>--2,600</td><td>September</td><td>--1,000</td></tr><tr><td>April</td><td>--1,800</td><td>October</td><td>--1,400</td></tr><tr><td>May</td><td>--1,200</td><td>November</td><td>--2,100</td></tr><tr><td>June</td><td>--900</td><td>December</td><td>--3,300</td></tr><tr><td colspan="3">Total Annual Volume</td><td>23,100</td></tr></table>	February	3,200	August	--1,000	March	--2,600	September	--1,000	April	--1,800	October	--1,400	May	--1,200	November	--2,100	June	--900	December	--3,300	Total Annual Volume			23,100
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June	--900	December	--3,300																						
Total Annual Volume			23,100																						
Special Provisions	The Public Utilities Commission of the State of New Hampshire requires Buyer to maintain a minimum gas inventory during the period November 1st – March 31st. Seller agrees to provide three (3) CNG Trailers on site during this period. Seller agrees to increase the number of trailers or to contract firm capacity on behalf of Buyer if required by the Public Utilities Commission. Any costs related to such request are the responsibility of the Buyer.																								
Title & Risk of Loss	Title and risk of loss shall pass from Seller to Buyer at the Delivery Point.																								

ALL TERMS AND CONDITIONS INCLUDED IN THIS CONTRACT SHALL APPLY TO EACH SALE AND DELIVERY OF PRODUCT BY SELLER TO BUYER (1) UNDER THIS CONTRACT AND HEREAFTER (2) WHETHER OR NOT UNDER A WRITTEN CONTRACT.

EXHIBIT A – TERMS AND CONDITIONS.

Compressed Natural Gas Master Agreement Terms and Conditions

Capitalized terms used herein without definition have the meanings given in the Summary of Base Terms to which these Terms and Conditions are attached and incorporated therein.

1. **Transactions:** The terms of this CMA apply to all end-use sales of compressed natural gas ("Gas" or "Commodity"), by Seller to Buyer. This CMA (the "Agreement") is the entire understanding between Parties and supersedes all other communication and prior writings with respect thereto; no oral statements are effective.
2. **Performance:** The Parties' obligations under this Agreement are firm. Seller is obligated to provide, and Buyer is obligated to purchase and receive the Contract Quantity of Commodity in accordance with the terms of this Agreement.
3. **Purchase Price:** Buyer will pay the Purchase Price. If the Purchase Price incorporates an index and the index is not announced or published on any day for any reason or if the Buyer and Seller mutually agree that a material change in the formula for or the method of determining the Purchase Price has occurred, then the Parties will use a commercially reasonable replacement price that is agreed in writing by both Parties. If Seller concludes that a change in any Law(s) materially increases Seller's costs, the Purchase Price may, upon mutual written agreement of the Parties, be adjusted to reflect such actual and documented costs. If the Parties are unable to reach agreement on a price increase to offset the increased cost to the Seller due to a change in Law, either Party may seek remedy under Section 6, Disputes. "Law(s)" mean all tariffs, laws, orders, rules, taxes and regulations. Beginning on the 3rd anniversary of the Effective Date of the Agreement, the Service Adder shall be subject to annual adjustment based on increases only in the Producer Price Index, as published annually by the Bureau of Labor Statistics.
4. **Billing and Payment:** Not more than 5 days after the conclusion of any month the Seller will invoice Buyer for all delivered Gas pursuant to this Agreement. Payment shall be due and payable within 20 days after the date of such invoice. If the Actual Quantity cannot be verified by the time the invoice is issued, the invoice will be based on Seller's good faith estimate of the Actual Quantity and adjusted for the Actual Quantity by a credit or charge, as applicable, in the next invoice for which the Actual Quantity is available. Seller will adjust Buyer's account following (i) confirmation by Seller of the Actual Quantity or (ii) any adjustment to, or recalculation of, Taxes. Buyer will pay interest on late payments at 1.5% per month or, if lower, the maximum rate permitted by law ("Interest Rate"). Buyer is also responsible for all costs and fees, including reasonable attorney's fees, incurred in collecting payment. "Actual Quantity" means the actual quantity of Commodity that is either delivered or metered, as applicable, to Buyer's account.
5. **Taxes:** Buyer is responsible for paying any Taxes associated with the Actual Quantity of Commodity sold under this Agreement that may become due at and after the Delivery Point. The Purchase Price does not include Taxes that are or may be the responsibility of the Buyer, unless such inclusion is required by Law. Buyer will reimburse Seller for any Taxes that Seller is required to collect and pay on Buyer's behalf and will indemnify, defend and hold Seller harmless from any liability against all Buyer's Taxes. Buyer will furnish Seller with any necessary documentation showing its exemption from Taxes, if applicable, and Buyer will be liable for any Taxes assessed against Seller because of Buyer's failure to timely provide or properly complete any such documentation. "Taxes" means all applicable federal, state and local taxes, including any associated penalties and interest and any new taxes imposed in the future during the term of this Agreement. Liabilities imposed in this Section will survive the termination of this Agreement.
6. **Disputes:** If either Party in good faith disputes amounts owed under Sections 3, 4, 5 or 8 the disputing Party will contact the non-disputing Party promptly and pay the undisputed amount by the payment due date. The Parties will negotiate in good faith regarding such dispute for a period of not more than fifteen (15) Business Days. In the event the Parties are unable to resolve such dispute, the disputing Party will pay the balance of the original invoice and either Party may exercise any remedy available to it in law or equity pursuant to this Agreement. In the event of a dispute other than for an invoiced amount, the Parties will use their best efforts to resolve the dispute promptly. Actions taken by a Party exercising its contractual rights will not be construed as a dispute for purposes of this Section. "Business Day" means any day on which banks are open for commercial business in New York, NY.

7. **Title and Risk of Loss:** Title to, possession of and risk of loss to the Commodity will pass to Buyer at the Delivery Point specified in the applicable Transaction Confirmation.

8. **Force Majeure and Regulatory Disapproval:** A Party claiming Force Majeure will be excused from its obligations under Section 2 as long as it provides prompt notice of the Force Majeure and uses due diligence to remove its cause and resume performance as promptly as reasonably possible.

(i) "Force Majeure" means that in the event either Party is rendered unable, wholly or in part, to perform its obligation under the Agreement (other than to make payments due hereunder) due to acts of God, floods, fires, explosions, extreme heat or cold, earthquake or storm, the closure, restriction or impassability of any local, state or federal road or highway, strikes, lockouts or other industrial disturbances, wars, acts of terrorism or sabotage, or any law, rules, order or action of any court or instrumentality of the federal or any state government, or for any other cause or causes beyond its reasonable control. It is agreed that on such Party's giving notice and full particulars of such force majeure to the other Party, the obligations of the Party giving such notice shall be suspended from the date of receipt of such notice and for the continuance of any inability so caused, but for no longer period, and such cause shall, so far as possible, be remedied with all reasonable dispatch.

(ii) Force Majeure does not include inability to pay, an increase or decrease in Taxes or the cost of Commodity, the economic hardships of a Party, or the full or partial closure of Buyer's facilities, unless such closure itself is due to Force Majeure, and shall not apply to those events merely making it more difficult or costly for Seller or Buyer to perform their obligations hereunder.

(iii) "Regulatory Disapproval" means an order from the New Hampshire Public Utilities Commission that precludes Buyer from recovering the costs that Buyer incurs under this agreement. Buyer will be excused from its obligations under Section 2 that arise after such Regulatory Disapproval so long as Buyer provides prompt notice to Seller and uses commercially reasonable due diligence to resolve issues that may resolve its cause and allow Buyer to resume performance.

9. **Failure to Deliver:** In the event Seller fails to provide Gas to meet Buyer's requirements, Seller agrees to pay any increased cost for the temporary use of Liquefied Natural Gas (LNG) above the cost of CNG for any quantity of LNG that Buyer burns as a result of Seller's failure to deliver CNG to Buyer under this Agreement until such service issue is resolved, except in the event of Force Majeure. In no event shall Seller's liability for failure to deliver CNG to Buyer be greater than \$250,000.

10. **Exclusivity:** During the term of this Agreement including any and all renewal periods, Buyer shall grant Seller the exclusive right to deliver CNG to Buyer's facility, provided that Seller is not in default of this Agreement. It is understood between the parties that this exclusive right to deliver CNG is waived for any deliveries of CNG from an alternative supplier required by Buyer due to Seller's failure to deliver.

11. **Default:** "Default" means: (i) failure of either Party to make payment by the applicable due date and the payment is not made within ten (10) days of a written demand; (ii) either Party, its parent or guarantor, becomes Bankrupt or fails to pay its debts generally as they become due; or (iii) failure of either Party to satisfy any representations and warranties applicable to it contained in Section 13A or 13B, Section 18, or Section 19 and the failure is not cured within fifteen (15) Business Days of a written demand, provided that no cure period or demand for cure applies to a breach of Section 13A(c). "Bankrupt" means an entity (a) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it, (b) makes an assignment or any general arrangement for the benefit of creditors, (c) otherwise becomes bankrupt or insolvent, however evidenced, (d) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, (e) has a secured party take possession of all or any substantial portion of its assets or (f) is dissolved or has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger).

12. Remedies: In the event of a Default, the non-defaulting Party may: (i) withhold any payments or suspend performance; (ii) upon written notice or a breach of Section 13A(c), accelerate any or all amounts owing between the Parties and terminate any or all Transactions and/or this Agreement; or (iii) commence negotiation with defaulting party to calculate a settlement amount as set forth below (the "Settlement Amount") for Seller and Buyer respectively; Any agreed upon Settlement Amount due from the defaulting Party to the non-defaulting Party shall be paid within three (3) Business Days of written notice from the non-defaulting Party. Interest on any unpaid portion of the Net Settlement Amount will accrue daily at the Interest Rate.

With respect to a Termination by Seller due to a Default by Buyer, the Termination Payment due from Buyer shall be (1) value of the Service Adder multiplied by the Contract Quantities for the remaining balance of the term of the Delivery Period as set forth in the Transaction Confirmation plus (2) if there is a fixed price Commodity transaction in effect, the difference between the fixed price Commodity as set forth in the applicable Transaction Confirmation and the forward market price for the Contract Quantities for the remainder of the applicable Delivery Period.

With respect to a Termination by Buyer due to Default by Seller, the Termination Payment due from Seller shall be the cost difference between the Purchase Price and the documented replacement fuel cost to the Buyer multiplied by the Contract Quantities for the remainder of the Delivery Period. The Parties agree that the Termination Payment constitutes a reasonable approximation of damages, and is not a penalty or punitive in any respect. The defaulting Party is responsible for all costs and fees incurred for collection of any Settlement Amount, including, reasonable attorney's fees and expert witness fees.

13. Representations and Warranties: Each of the following are deemed to be repeated each time a Transaction is entered into:

A. Each Party represents that: (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary to perform to this Agreement; (b) the execution of this Agreement is within its powers, has been duly authorized and does not violate any of the terms or conditions in its governing documents or any contract to which it is a party or any law applicable to it; and (c) it is not Bankrupt.

B. Buyer represents and warrants that: (a) it is not a residential customer; (b) it will immediately notify Seller of any change in its ownership; (c) execution of this Agreement authorizes service for the Delivery Period and any Renewal Term; (d) no oral communication, received from the Seller will be deemed to be an assurance or guarantee as to any results expected from this Agreement; (e) if it is executing this Agreement in its capacity as an agent, such Party represents and warrants that it has the authority to bind the principal to all the provisions contained herein and agrees to provide documentation of such agency relationship; and (f) (i) it will provide, to Seller, information reasonably required to substantiate its usage requirements, including information regarding its business, locations, historical/projected usage, time of use, hours of operation, agreements, schedules, which in substantial part form the basis for the calculation of charges for the transactions hereunder; (ii) acceptance of this Agreement constitutes an authorization for Buyer's release of such usage information to Seller but does not authorize release of information in violation of confidentiality provisions; and (iii) the usage information provided is true and accurate as of the date furnished and as of the effective date of the Agreement.

C. Each Party acknowledges that: (a) this Agreement is a forward contract and a master netting agreement as defined in the United States Bankruptcy Code ("Code"); (b) this Agreement shall not be construed as creating an association, trust, partnership, or joint venture in any way between the Parties, nor as creating any relationship between the Parties other than that of independent contractors for the sale and purchase of Commodity; and (c) Seller is not a "utility" as defined in the Code.

14. Indemnification Limitation of Liability:

(A). Both parties shall release, indemnify, and hold the other, its affiliates, and their officers and employees harmless from any and all claims, losses, liabilities, and expenses (including reasonable attorney's fees and costs of defense) in any way arising out of or relating to (1) any act or omission by indemnifying Party, or (2) breach of this agreement or the party's representations and warranties, which results in personal injuries (including death) or property

damage or other loss or liability. This indemnification obligation shall survive the termination of this Agreement.

(B) NEITHER PARTY WILL BE LIABLE TO THE OTHER UNDER THE AGREEMENT FOR CONSEQUENTIAL, INDIRECT OR PUNITIVE DAMAGES OR SPECIFIC PERFORMANCE, EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT.

15. Insurance: Both parties agree at all times during the term of this Agreement to carry adequate insurance, but in no event less than five million dollars (\$5,000,000) general liability insurance, covering all such liability and contractual obligations, and upon request shall furnish the requesting party evidence satisfactory to it of such insurance. In addition, Seller shall at all times maintain automobile liability insurance with at least \$500,000 combined single limit. Seller will include Buyer as additional insured and Seller's insurance shall be primary and non-contributory. Either party shall provide the other with not less than thirty (30) days prior notice of any termination of any such policy. Seller shall cause its Carriers who will be accessing the buyer's site in connection with this Agreement to carry and maintain, at its sole expense, with reliable insurance companies acceptable to the Buyer's guidelines and authorized to do business in the state or area in which services are provided, carry at least the minimum insurance coverage as required by Buyer's site operations.

16. Security: Each party shall annually provide on request from the other its most recent set of audited financials from the start of the Delivery Period. In the event that Seller has a reasonable concern with respect to the credit worthiness of the Buyer after review of the annual financial statements and prior period payment history, the Seller may submit such financial statements to an independent third party for evaluation of solvency. If the third party determines the Buyer insolvent, then on written notice to the Buyer, Seller may request security (cash or letter of credit) for up to one month of expected deliveries.

17. Measurement: The quantity of Gas delivered to the Delivery Point shall be measured by means of a revenue grade meter consistent with industry practice. Buyer shall be invoiced for the actual number of dekatherms of Gas recorded by the meter at the Delivery Point. Seller shall have the obligation to perform meter testing and calibration in strict accordance with the manufacturers recommended maintenance procedures, such testing to be performed during regular business hours on at least two (2) days prior notice to Buyer.

If the Buyer elects to install sub-metering downstream of the Seller's meter, and in the event of a discrepancy between Buyer and Seller meter results for the same period of time that leads to a billing question, either party may request the other to verify its meter. In the event a meter is found to be inaccurate by recording results in excess of 2% of actual volume, the owner of the inaccurate meter will pay for the calibration and invoicing will be adjusted to correct any inaccuracy. If the recalibrated meter is within 2% of actual volume, the party requesting the calibration pays for the calibration and invoicing for any previous period in question shall not be changed. As a requirement for requesting a calibration, the requesting party must be able to demonstrate that its own meter has been maintained according to all manufacturer recommended maintenance procedures or as required by the state of New Hampshire for gas meter applications during the period of time that any metering accuracy is in question.

If the period of such error is not known definitely or agreed upon, the Parties agree that Seller truck delivery logs for the period in question provide an audit record acceptable for invoicing. Buyer may witness all testing and gauging; provided however, if no representative for Buyer is present, Seller's measurement and/or determination of quantity shall be final.

18 Intentionally Omitted

19. Other:

(a) This Agreement is governed by the law of the State of New Hampshire without regard to any conflict of rules doctrine. The Parties submit to the non-exclusive jurisdiction of the courts of the State of New Hampshire and any United States District Court located in New Hampshire; (c) Each Party waives its right to a jury trial regarding any litigation arising from this Agreement. (d) No delay or failure by a Party to exercise any right or remedy to which it may become entitled under this Agreement will constitute a waiver of that right or remedy. (e) Seller warrants that (i) it has good title to Commodity delivered, (ii) it has the right to sell the Commodity, and (iii) the Commodity will be free from all royalties, liens, encumbrances, and claims. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, ARE DISCLAIMED. (f) All notices and waivers will be made in writing and may be delivered by hand delivery, first class mail (postage prepaid), overnight courier service or by facsimile and will be effective

upon receipt; provided, however, that any termination notice may only be sent by hand or by overnight courier service, and, if sent to Seller, a copy delivered to: Seth Berry, 300 Brickstone Square, Suite 1005, Andover, MA 01810. (g) No amendment to this Agreement will be enforceable unless reduced to writing and executed by both Parties. (h) Either Party may assign this Agreement with 90 days' notice to the other Party subject to consent, which shall not be unreasonably withheld. In addition, Seller may pledge, encumber, or assign this Agreement or the accounts, revenues, or proceeds of this Agreement in connection with any financing or other financial arrangements without Buyer's consent; in which case Seller shall not be discharged from its obligations to Buyer under this Agreement. (i) This Agreement may be executed in separate counterparts by the Parties, including by facsimile, each of which when executed and delivered shall be an original, but all of which shall constitute one and the same instrument. (j) Any capitalized terms not defined in this CMA shall have the meaning set forth in any applicable rules, tariffs or other governmental regulations, or if such term is not defined therein then it shall have the well-known and generally accepted technical or trade meanings customarily attributed to it in the natural gas or electricity generation industries, as applicable. (k) The headings used in this Agreement are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting this Agreement. (l) Any executed copy of this Agreement and other related documents may be digitally copied, photocopied, or stored on computer tapes and disks ("Imaged Agreement"). The Imaged Agreement will be admissible in any judicial, arbitration, mediation or administrative proceedings between the Parties in accordance with the applicable rules of evidence; provided that neither Party will object to the admissibility of the Imaged Agreement on the basis that such were not originated or maintained in documentary form. (m) Where multiple parties are Party to this Agreement with Seller and are represented by the same agent, it is agreed that this Agreement will constitute a separate agreement with each such Party, as if each such Party had executed a separate Agreement, and that no such Party shall have any liability under this document for the obligations of any other Parties. (n) Neither Party shall disclose the terms of this Agreement, without prior written consent of the other party, to any third party, other than the Party's employees, affiliates, agents, auditors and counsel who are bound by substantially similar confidentiality obligations, trading exchanges, governmental authorities, courts, adjudicatory proceedings, pricing indices, and credit ratings agencies; provided that a Party that receives a demand for disclosure pursuant to court order or other proceeding will first notify the other Party, to the extent practicable, before making the disclosure.

EXHIBIT B – CONSTRUCTION, COMMISSIONING, MAINTENANCE, and TRAILER DELIVERY

As conditions to the delivery of Gas (also referred to herein as "CNG") to the Buyer under this contract,

1. SITE PREPARATION & PERMITTING:

- a. Buyer will be responsible for design, engineering and construction work to construct a 3-trailer unloading site (the "Site") for the installation of Seller's equipment and delivery of CNG to the Buyer.
- b. Buyer shall be required to reasonably prepare the Site, including ensuring that the Site is cleared, level, secured by fencing, and provided with utilities including electric, data, and an interconnect with any controls systems Buyer requires the CNG delivery system to interface with, as well as an access point equipped with a piping flange interconnect capable of coupling with Seller's skid. Except to the extent of damage caused by Seller or its agents/Carriers, all costs of preparing and maintaining the Site shall be borne by the Buyer.
- c. Seller shall provide reasonable engineering support and site layout recommendations to the Buyer. Seller shall review and approve the Site design prior to construction, consistent with minimum setbacks and other requirements per NFPA 52.
- d. Seller shall be responsible for all permits required for the installation and operation of the CNG Equipment provided however that Buyer shall be responsible for all permits related to land use, air, and environmental.

2. CNG EQUIPMENT:

- a. Seller shall provide a package of skid-mounted equipment ("CNG Equipment") at the Buyer site to serve as a delivery trailer connection and unloading point for the Seller. The equipment shall be connected via piping to the flange as provided by the Buyer at the site as the point of delivery for natural gas, and capable of delivering CNG to the Buyer Facility at a maximum rate of 40____SCFH.
- b. The CNG Equipment is expected to conform to the following general specifications:
 - i. Manifold connections allowing for 3 CNG delivery trailers with hose connections compatible with delivery trailers.
 - ii. Heater(s) sized to support proper intermediate temperatures as well as final delivery temperature of the gas stream. Heating must be sufficient to prevent cold temperatures and possible hydrate formation downstream of regulator. Buyer is responsible for Natural Gas used in heater(s).
 - iii. 2-stage primary pressure step-down regulation with over-pressure protection. Custody transfer metering to be provided on outlet of skid. Meter shall be a custody grade meter with capability to interface with control system.
 - iv. Safety systems to include gas and flame detection. Methane detection system to be included with process skid. Flame detector located along truck loading area. Flame detectors coverage area shall include the connection end of the transports and the process skid. Detectors will input alarms and faults into the control system.
 - v. Control system required to monitor key process conditions, switch trucks when empty, provide emergency shutdown, and remotely communicate system condition. System shall have a method to transmit data or screen control to remote site for customer monitoring. Seller will provide Buyer access to all transmitted data.
- c. During the Delivery Period the Seller shall be responsible for all maintenance and support for the CNG Equipment. Seller will provide maintenance personnel that are qualified per Buyer's Operator Qualification (OQ) plan. In the event of emergency, Seller commits to having the personnel on-site one hour after being notified of an emergency by the Buyer.

3. INSTALLATION & COMMISSIONING:

- a. Seller shall review the completed Site prior to installation to evaluate and confirm that the Site was built to the approved design and specifications. Determination of whether the Site is suitable for installation shall be on mutual agreement. Upon acceptance of the Site, Seller shall install the CNG Equipment.
- b. Seller shall deliver and unload its equipment to the Service Location prior to the Effective Date. Buyer will provide and allow for storage of that equipment as needed at no charge.
- c. Seller will be responsible for connecting its equipment to existing utilities. Once the CNG Equipment is connected, Seller and Buyer will initiate gas flow. Controls and safety systems will be tested during commissioning period prior to commencing operation.

4. SITE MAINTENANCE:

- a. For the duration of the Agreement, all site maintenance, including but not limited to snow removal, and all costs related to the upkeep of the site and its ingress and egress shall be borne by the Buyer. Failure to maintain the site in a manner sufficient to permit delivery shall be a Buyer act of default.

5. TRAILER DELIVERY:

- a. For the duration of the Agreement, Seller agrees to provide delivery drivers that possess Operator Qualification (OQ), per Buyer's OQ plan.
- b. In the event Seller is unable to provide delivery drivers that possess proper OQ's per Buyer's OQ plan, Seller will provide twenty-four (24) hour notice prior to trailer delivery. Buyer will provide properly qualified personnel at Seller's expense. Buyer will deduct costs of provided OQ personnel, from Seller's next invoice.

EXHIBIT C – SITE CONSTRUCTION AND RESPONSIBILITIES

As conditions to the delivery of CNG to the Buyer under this contract,

1. SITE PREPARATION & PERMITTING:

- a. Buyer will be responsible for design, engineering and construction work to construct an unloading site (the "Site") for the installation of Seller's equipment and delivery of CNG to the Buyer.
- b. Buyer shall be required to reasonably prepare the Site, including ensuring that the Site is cleared, level, secured by fencing, and provided with utilities including electric, data, and an interconnect with any controls systems Buyer requires the CNG delivery system to interface with, as well as an access point equipped with a piping flange interconnect capable of coupling with Seller's skid. All costs of preparing and maintaining the Site shall be borne by the Buyer.
- c. Buyer shall ensure that the site is cleared of equipment and any obstruction that might prevent Seller from access to deliver equipment, including crane and overhead support for unloading equipment. Seller will provide space for laydown and construction materials if required at no charge.

2. GENERAL CONDITIONS: Buyer will supply a CNG unloading site. Seller shall provide reasonable engineering support and site layout recommendations to the Buyer. Seller shall review and approve the Site design prior to construction, Seller will provide Buyer with any required setback requirements necessary to meet NFPA 52.

Buyer will supply Seller with sufficient space for parking and equipment installation. Soil must be stabilized and properly drained to provide adequate support for CNG trailer parking and process piping and equipment.

3. TYPICAL SCOPE OF WORK FOR CONSTRUCTION OF CNG UNLOADING SITE:

Construction of a CNG unloading station includes site construction as well as piping, electrical and data interfaces between the boiler plant and the XNG-provided decompression equipment at the fuel unloading station. Area to be compacted gravel. If compacted gravel provides insufficient support for equipment or truck traffic, Buyer will provide adequate support at Buyer expense to support XNG equipment skids and trailer landing gear.


- a. **Utilities: Power and data access installed per local and state code**
- b. **Gas Piping:**
 - All piping downstream of Buyer meter to be installed per state and local code
 - Piping connection to Buyer equipment be steel transition 90 turned up at the decompression equipment at 6" flange
 - Seller to be responsible for connecting from CNG Equipment outlet piping to existing 4" transmission line on site.
- c. **Trailer parking area.**
 - Level paved trailer parking area large enough to accommodate three (3) trailers
 - Provide entrance "maneuvering area," turn around and parking area to provide adequate area for truck and trailer turn around.
 - Light poles and fixtures to approved plan.
- d. **Concrete:**
 - All concrete pads to be reinforced concrete as needed
 - Light pole bases
 - Each parking lane should have trailer stops capable of stopping a full CNG trailer.
- e. **Electrical grounding grid.** Seller to confirm that Buyer installed grounding grid is sufficient to meet NFPA 52 and any state and local code.
- f. **Electrical service.**
 - Buyer will provide 100-amp power supply run consisting of a conduit, and wire to CNG Equipment skid
 - Power disconnect box to be mounted to or at the edge of the Main Equipment pad.
 - Seller to provide all connection from the disconnect box to their system.
- g. **Data service.** Internet service to the PLC controller required for remote monitoring provided by Buyer. Buyer will provide a wired internet connection with a static IP address and adequate bandwidth capacity for Seller to operate and monitor decompression equipment on a 24 hours per day, 7 days per week basis.

IN WITNESS WHEREOF, this CMA is entered into and effective as of the date written above.

BUYER: Liberty Utilities

SELLER: Xpress Natural Gas LLC

By:



Name:

Bill Kileen

Title:

Director, Energy Procurement

By:



Name:

~~Matthew P. Smith~~

Seth Berry

Title:

~~VP, Sales and Marketing~~

CAO

Liberty Utilities (EnergyNorth Natural Gas) Corp. – Keene Division (“Keene”) Binding Request for Indicative Pricing July 17, 2020

Overview

The purpose of this binding solicitation is to secure a delivered CNG service to Liberty’s Keene Division. The best-cost solution balances price and non-price factors such as reliability, flexibility and viability. The responses to this solicitation will help Liberty appropriately analyze the most cost effective and reliable solution to supply CNG to the distribution segment of the Keene Division which was recently converted to a natural gas system. All bids will be kept confidential.

Keene Background and Incremental Requirements

The Keene Division operates via a CNG and Propane/Air facility in Keene, NH and serves approximately 1,250 residential and commercial customers. The CNG segment of the distribution system was converted in 2019 and serves approximately 20 commercial customers. The purpose of this solicitation is to secure CNG supply for the recently converted segment of the Keene distribution system known as the Monadnock Plaza.

Keene is located in the south western region of NH. Liberty would like to be able to offer a competitive fuel option and expand Keene’s customer base and distribution system. Since Keene has a distribution system throughout a good portion of the city, Liberty is exploring an expansion of CNG/LNG options to help meet the energy needs of the Community by providing the city with a centralized natural gas distribution system. While this solicitation is specifically addressing the CNG needs of the commercial customers in the Monadnock Plaza, Liberty is open to discussing future expansion plans in Keene.

Table 1 (below) summarizes the load for which Keene is seeking indicative bids.

Table 1. Monadnock Plaza Estimated Load Requirements

Normal Year	
	MMBtu
Plan Year (Nov-Oct)	21,537
Winter Load (Nov - Apr)	15,789
Design Year	
	MMBtu
Plan Year (Nov-Oct)	23,155
Winter Load (Nov - Apr)	16,975
Design Day	
	MMBtu
Plan Year (Nov-Oct)	210

The table above reflects the approximate needs of the above mentioned Plaza. The Company sees the potential to grow the franchise more than tenfold over the next 4-5 years.

Minimum Storage Requirement

The State of New Hampshire requires that all natural gas utilities have sufficient onsite inventory to satisfy a 7-day cold snap. The determination of the requirement is based on the historically coldest 7 consecutive day period. For the purpose of this solicitation the calculated requirement for this 7-day period is approximately 1,500 MMBtu. This 1,500 MMBtu requirement can be met through a combination of physical onsite storage and up to 70% of 5 days' worth of truck deliveries. For example, if there is 1,000 MMBtu of onsite physical storage, the remaining 500 MMBtu would have to be delivered via dedicated trucking but only 70% of the dedicated trucking for 5 days could be used in the calculation. All proposals should address the manner in which this 7-day inventory requirement is to be satisfied.

Bid Requirements

The Company invites interested parties to submit bids for a delivered commodity only service and/or a turnkey CNG service, including costs for a decompression skid, to meet the load requirements of its Keene customers as stipulated in Table 1 above. All bids should address the following requirements:

- A delivered CNG commodity service commencing July 1, 2021.
- Binding pricing is to include the cost of the natural gas commodity, transportation, and any other associated cost necessary to provide the delivered service.
- Monthly/annual lease fee for the decompression skid and associated maintenance costs of such decompression skid.
- Clear delineation of equipment and services bidder intends to own/provide and what Keene is expected to own/provide.
- Pricing structures are at the discretion of the bidder but may include a fixed, floating or index based commodity price, demand/lease charge and/or variable charge.
- Design Day deliveries of up to 210 MMBtu.
- Peak hour of approximately 17 MMBtu.
- Clear description on how bidder intends to satisfy the New Hampshire PUC 7-day inventory requirement as described more fully above.
- Annual and winter deliveries per Table 1 under Normal Year with the ability to increase deliveries to those shown under Design Year.
- Bids may be for a term of 1 to 3 years.

Response Instructions

Bidders wishing to respond to this solicitation must do so by **5:00 PM EST on Friday, August 7, 2020**. Each bidder is encouraged to provide as much detail as possible in their response. Please submit your response and any questions you may have by email to the following:

Paul Maffa

Paul.maffa@libertyutilities.com

Deborah Gilbertson

Deborah.gilbertson@libertyutilities.com

Liberty has the right to reject any and all bids. The winning bidder, if any, will be selected based on the offer that yields the overall least cost, consistent with concerns for reliability of service and other business factors applied by Liberty in its sole discretion.