

**THE STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

Docket No.: DG 14-380

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

Petition for Approval of Long-Term Firm Transportation Agreement

**PETITION TO INTERVENE
OF PIPE LINE AWARENESS NETWORK FOR THE NORTHEAST, INC.**

Pursuant to the New Hampshire Public Utilities Commission's (the "Commission") Order of Notice dated January 21, 2015, N.H. Code Admin. Rules Puc 203.17, and RSA 541-A:32, Pipe Line Awareness Network for the Northeast, Inc. ("PLAN") hereby respectfully petitions for leave to intervene in the above-captioned proceeding. In support of its petition, PLAN states the following:

BACKGROUND

1. On December 31, 2014, Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities ("Liberty") filed with the Commission a petition for approval (the "Petition") of a firm transportation agreement (the "Precedent Agreement") with Tennessee Gas Pipeline Company, LLC ("Tennessee") and a determination that Liberty's decision to enter into the Precedent Agreement is "prudent and consistent with the public interest." Liberty is seeking final approval from the Commission of its decision to enter into the Precedent Agreement by July 1, 2015.
2. As set forth in the Petition, the Precedent Agreement consists of a 20-year contract between Liberty and Tennessee pursuant to which Liberty would purchase from Tennessee on a firm basis up to 115,000 Dth per day of capacity. Liberty is seeking the Commission's advance approval of the Precedent Agreement given the alleged

“substantial financial commitment” Liberty claims is required in connection with this transaction.

3. As set forth in the Order of Notice, this proceeding will require the Commission to address issues related to RSA 374:1 and 374:2 (public utilities to provide reasonably safe and adequate service at “just and reasonable” rates); RSA 374:4 (Commission’s duty to keep informed of the manner in which all public utilities in the state provide for safe and adequate service); RSA 374:7 (Commission’s authority to investigate and ascertain the methods employed by public utilities to “order all reasonable and just improvements and extensions in service or methods” to supply gas); and 378:7 (rates collected by a public utility for services rendered or to be rendered must be just and reasonable). As the Commission further noted, each of these issues include a determination as to whether Liberty reasonably investigated and analyzed its long term supply requirements and the available alternatives for satisfying those requirements, and whether Liberty’s entry into the Precedent Agreement is prudent, reasonable and otherwise consistent with the public interest.

LEGAL STANDARD TO INTERVENE

4. New Hampshire Code of Administrative Rules, Puc 203.17 states that the Commission shall grant one or more petitions to intervene in accordance with the standards of RSA 541-A:32.
5. Pursuant to RSA 541-A:32 I(b) and (c), a petition *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 petition qualifies under

any provision of the law) and the interests of justice and orderly and prompt conduct of the proceedings would not be impaired by allowing intervention.

6. Alternatively, RSA 541-A:32 II states that the Commission *may* grant a petition to intervene “at any time, upon determining that such intervention would be in the interests of justice and would not impair the orderly conduct of the proceedings.”

**PLAN MEETS THE
STANDARDS FOR INTERVENTION IN THIS PROCEEDING**

I. Summary of PLAN

7. PLAN is a non-profit corporation organized exclusively for charitable, scientific, and educational purposes incorporated in Massachusetts.
8. A primary purpose of PLAN – as set forth in its organizational documents – is to engage in legal and regulatory advocacy on behalf of its community members in connection with fossil fuel infrastructure and its alternatives.
9. PLAN is also dedicated to educating the public about fossil fuel infrastructure and the alternatives; protecting consumers, the environment, climate, and public health from proposed and existing fossil fuel infrastructure; promoting efficiency measures, expansion of programs that manage “peak use”, and other lower impact energy solutions; and promoting, coordinating and assisting the activities of other organizations and groups whose purposes are similar.
10. The members of PLAN include customers and ratepayers of Liberty in New Hampshire. Moreover, members of PLAN are private landowners whose property will be adversely impacted (affecting their community, environment and safety) and taken by Tennessee to construct the natural gas pipeline that will provide the capacity Liberty seeks to purchase by way of the Precedent Agreement.

11. As part of its mission, PLAN is dedicated to representing the economic and property rights, privileges and interests of its members before the Commission, and ensuring that local distribution companies such as Liberty have reasonably and diligently investigated all feasible solutions for satisfying existing and future supply needs.

II. PLAN Meets the Standards for Intervention

12. The firm transportation services contemplated by the Precedent Agreement would derive from Tennessee's proposed Northeast Energy Direct ("NED") pipeline project, which is currently under review by the Federal Energy Regulatory Commission, Docket No. PF14-22-000. NED is a high-pressure natural gas pipeline proposed by Tennessee to run from Pennsylvania through the states of New York, New Hampshire, and Massachusetts, ending in Dracut, Massachusetts where it could join with existing pipelines that connect to the Massachusetts and Canadian coasts. In addition to the main transmission line, NED includes several lateral lines, as well as the construction of nine new compressor stations along the route and a large compressor station in southern New Hampshire. Tennessee's current preferred route for the NED pipeline traverses over 70 miles (not including laterals) through the state of New Hampshire.
13. PLAN members are customers of Liberty and will therefore be subject to the prices negotiated in the Precedent Agreement, if approved by the Commission.
14. PLAN members are private landowners whose property will be adversely impacted and taken by Tennessee for the construction of the NED pipeline.
15. PLAN members are the supposed beneficiaries of capacity that will be purchased by Liberty pursuant to the Precedent Agreement.

16. Based on the above, it is clear that the rights, privileges and interests of PLAN and its members will be directly and substantially impacted by this proceeding in their capacity as (i) ratepayers of Liberty; (ii) landowners of private property on which the NED pipeline will be constructed; and (iii) recipients of capacity transported across lands taken by Tennessee to facilitate the NED pipeline.

Financial Impact on PLAN Members as Ratepayers

17. Liberty's Petition states that approval of the Precedent Agreement is necessary "to reliably satisfy existing and future customer load requirements in [Liberty's] service area, and it is the best cost resource to meet the capacity needs of [Liberty's] customers." See Petition at ¶ 2. The members of PLAN represent the "existing and future customers" to which Liberty refers; therefore, PLAN and its members will be subject to any rates set forth in the Precedent Agreement.

18. As the end users who will be financially impacted by the outcome of this proceeding, the individual members of PLAN would have a *per se* right to intervene in this action and accordingly, intervention by PLAN on its members' behalf is therefore proper in this case. See Reconciliation of Energy Service and Stranded Costs for Calendar Year 2012, Docket No. 13-108, 2013 N.H. Puc. LEXIS 105, *4 (July 9, 2013) ("We find that the substantial interests of [the Conservation Law Foundation] may be affected by this proceeding, through its members that are [] ratepayers."); Petition for Approval of Power Purchase Agreement with Laidlaw Berlin Biopower, LLC, Docket No. 10-195, 2010 N.H. Puc. LEXIS 97, *14-15 (October 15, 2010) (ratepayers affected by the costs incurred from power agreements granted intervention); Petition for General Rate Increase Order Approving Procedural Schedule, Docket No. 99-057,

1999 N.H. Pub. LEXIS 62, *5 (August 12, 1999) (representative of constituents affected by rate changes granted full intervenor status).

19. Further, in considering alternatives to meet the future demand of its customers, Liberty claims it has “determined that the ‘best cost’ capacity option for its customers was the purchase of additional capacity from Tennessee through its NED project.” See Petition at ¶ 4. Liberty’s financial analysis will be determinative in any assessment of “best cost” and ultimately will be a significant factor in the development of rates charged to PLAN members as customers of Liberty; therefore, the Commission’s determination as to the reasonableness and prudence of the Precedent Agreement will have a *de facto* impact on the rights and interests of PLAN’s members. Accordingly PLAN and its ratepayer members are directly and substantially affected by this proceeding and should be permitted to intervene in the Commission’s review of Liberty’s assertion that the Precedent Agreement presents the “best cost” capacity option and is consistent with the public interest.

**Impact on PLAN Members as Owners of Property
on which the Pipeline will be Constructed**

20. The Petition states that “the NED project will likely provide opportunities to expand natural gas distribution service to other parts of the state, and within [Liberty’s] existing franchise territory” and will include “primary delivery points off the Concord Lateral at the Nashua, Manchester and Laconia city gates and a primary delivery point at a new interconnect off of the NED mainline at or near West Nashua. . .” See Petition at ¶¶ 2-3. “To provide this transportation service, Tennessee would construct a gas pipeline along the route depicted on Attachment FCD-1 [of the Petition].” *Id.* at ¶ 5.

21. As the owners of private land that will be impacted and taken – either by sale or by eminent domain – to facilitate construction of the NED project, the members of PLAN will be subject to the legal, physical and environmental impacts of pipeline construction on their property. Because their land rights are specifically affected by the pipeline and the Commission’s approval of the Precedent Agreement, PLAN and its members have a direct and substantial interest in the outcome of this proceeding. See Request for Arbitration Regarding Failure to Provide Access to Utility Poles by Public Service of New Hampshire, Docket No. 08-146, 2010 N.H. Puc LEXIS 27, *4 (April 7, 2010).¹
22. Moreover, Liberty asserts in its Petition that customers within its territory will benefit directly from access to capacity provided through the NED pipeline. This purported benefit, however, is contingent upon the construction of the pipeline and the taking of neighboring landowners’ property to facilitate such construction. As its members are alleged beneficiaries of the Precedent Agreement, PLAN and its members have substantial interests that may be affected by this proceeding. See Petition Requesting Easement Rights Across Property of Philip J. Ferneau, Docket No. 03-187, 2004 N.H. Puc LEXIS 13 (February 20, 2004) (beneficiary of electric services permitted to intervene where access to such services was contingent upon the taking of an abutter’s property).

¹ “Additionally, the Commission determined that landowners whose property might be involved have rights, duties, privileges, immunities or other substantial interests that may be affected by this proceeding, and that the interests of justice and the orderly and prompt conduct of the proceedings would not be impaired by allowing their intervention. The Commission determined that any landowner receiving direct notice of this docket will automatically be deemed a party upon receipt by the Commission of written notice from such landowner, or from his or her representative, that the landowner wished to participate. Participating landowners would be permitted to submit briefs and/or reply briefs regarding the legal issues identified within the secretarial letter.”

23. Intervention will allow PLAN to protect its members' interests in the financial, physical, and environmental impacts resulting from Liberty's Precedent Agreement with Tennessee and the ramifications of constructing a gas pipeline across private lands owned by PLAN members and their fellow New Hampshire citizens. Moreover, intervention will serve the interests of justice and will not impair the orderly and prompt conduct of the proceedings. In short, PLAN and its members (ratepayer and landowner) are directly and substantially affected by this proceeding and seek to intervene pursuant to RSA 541-A:32 I.

III. PLAN Meets the Discretionary Standards for Intervention

24. Alternatively, the facts and circumstances surrounding Liberty's Petition establish that PLAN's intervention should be granted pursuant to the Commission's discretionary authority under RSA 541-A:32 II. PLAN has timely requested intervention in this proceeding, and PLAN has identified the specific interests of its members that will be affected by the Commission's ultimate determination – which members each would have standing to intervene individually had they so petitioned. PLAN speaks as a single, cohesive, and unified voice on behalf of its members concerning these issues. PLAN's interests in the outcome of this proceeding will not be adequately represented by any other party hereto, nor will PLAN's participation delay this proceeding as PLAN does not request any changes to the Schedule as set forth in this Docket.

25. Under these circumstances, the Commission has routinely permitted intervention of such organizations through its discretionary authority to speak on behalf of itself and its affected members. See Determination Regarding PSNH's Generation Assets,

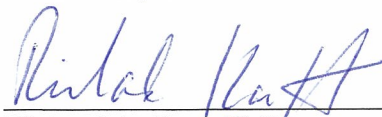
Docket No. 14-238, Order No. 25,733 (November 6, 2014) (Commission permitted discretionary intervention to business organization that “represents the interests of commercial ratepayers” where the organization’s “stated economic interests in this docket are consistent with the interests its members would likely raise.” Moreover, the Commission found it prudent to “hear from a single voice speaking on behalf of that constituency.”); Petition to Establish 2014 Energy Service Rate, Docket No. 13-275, 2013 N.H. Puc LEXIS 161, *7-8 (November 15, 2013), (even where an organization’s rights are not immediately implicated by the proceeding, intervention is permitted on a discretionary basis for organization representing the interests of its ratepayer members).

26. For these reasons, and in the alternative, PLAN requests that it be allowed to intervene pursuant to the Commission’s discretionary authority.

WHEREFORE, PLAN respectfully requests that the New Hampshire Public Utilities Commission grant its timely Petition to Intervene and permit PLAN to participate in this proceeding with full rights as a party.

Respectfully Submitted,

**Pipe Line Awareness Network for the
Northeast, Inc.**



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CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of February, 2015, a true and correct copy of the foregoing **PETITION TO INTERVENE OF PIPE LINE AWARENESS NETWORK OF THE NORTHEAST, INC.** was electronically served upon each individual or organization with the electronic mail address as indicated below:

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