

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

Docket No. DG 16-852

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

Petition for Expansion of Franchise to Town of Hanover and City of Lebanon

Objection to Motion for Rehearing

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities (the “Company” or “Liberty”), through counsel, respectfully objects to Jonathan Chaffee’s motion for rehearing of Order No. 26,109 (Mar. 5, 2018) (the “Order”) because the motion does not establish that the Order is “unlawful or unreasonable.” RSA 541:4.

In support of this objection, the Company represents as follows:

1. The Order granted Liberty the right to provide natural gas service in the Town of Hanover and the City of Lebanon. To reach this conclusion, the Commission had to find that “granting a franchise to Liberty in Hanover and Lebanon is for the public good.” Order at 15. The Commission described its “public good” analysis:

In examining whether a franchise petition is in the public good, we consider whether the franchise applicant has the financial, managerial, and technical expertise to successfully and safely serve customers in the intended territory; whether the financial projections used to economically justify the franchise petition are reasonable and in conformance with accepted financial, accounting, and business standards; in the case of existing New Hampshire public utilities, whether the franchise expansion would pose an unacceptable risk of cross-subsidization or other financial risk to existing utility ratepayers; and in general, whether the franchise petition’s approval would offer benefits to the public.

Order at 15.

2. The Commission also described what its public good analysis did *not* include:

Last, while we acknowledge Hanover's, Lebanon's, and the public commenters' environmental and public policy objections to the use of gas, energy and environmental policy is the purview of the legislature and none of the parties or commenters has demonstrated that any law or regulation would prohibit the expanded distribution of natural gas in the state. In addition, if there are specific environmental issues, environmental regulatory decisions are better left to an agency that is expert in the subject matter and has the jurisdiction to regulate effects on the environment, such as the Department of Environmental Services.

Order at 22.

3. Thus, with full knowledge of Mr. Chaffee's environmental arguments, the Commission found that Liberty's request to serve Hanover and Lebanon was for the public good and granted the Company's franchise petition: "We find that, with the conditions imposed above, Liberty possesses the financial, managerial, and technical expertise to successfully serve customers in Hanover and Lebanon" Order at 21
4. Mr. Chaffee filed a motion for rehearing raising three arguments in an attempt to meet the statutory requirement of demonstrating that the Order "is unlawful or unreasonable." RSA 541:3.
5. First, Mr. Chaffee argued there is "new evidence" that was not available at the time of the hearing in this docket. Motion at 2. The new evidence is Liberty's Least Cost Integrated Resource Plan ("LCIRP") that the Company filed in October 2017, *see* Docket No. DG 17-152, which Mr. Chaffee argued "establishes, on its face, that Liberty's expansion plans – including those which are the subject of this proceeding -- are inconsistent with New Hampshire law and unapprovable." Motion at 2. Mr. Chaffee argued that, "[t]ogether with the evidence presented by Chaffee in this matter, the new evidence presented in the LCIRP

case provides more than sufficient grounds for denying the petition in this proceeding – and the Commission should.” *Id.*

6. Mr. Chaffee also incorporated (and attached as Exhibit A to his motion) a motion to dismiss to be filed by Terry Clark in the LCIRP case (the “LCIPR motion”). The LCIRP motion makes the environmental argument that expansion of natural gas is against state policy and thus the Commission should not approve the LCIRP.

7. But Mr. Chaffee did not articulate why the “expansion plans” in the LCIRP or the extensive environmental arguments made in the LCIRP motion constitute “new evidence” that warrant rehearing. Rather, Liberty’s expansion plans have been well known for several years,¹ most every citation in the 22 page LCIRP motion predates the September 2017 hearing in this docket, and Mr. Chaffee articulated both arguments in this docket through his prefiled and oral testimony. *See* Hearing Exhibit 9 in this docket, at 10-12 and 14-15; and the Transcript of the September 7, 2017, hearing in this docket, at 142-148.

8. Thus, there is no “new evidence” to support Mr. Chaffee’s motion for rehearing.

9. Mr. Chaffee’s second argument for rehearing is that the Order “fails to provide a proper, necessary procedure for confirming that Liberty has met the customer commitment requirements under the settlement agreement” Motion at 3. This argument also fails the requirement of showing the Order is “unlawful or unreasonable.”

10. The Order imposed detailed conditions on Liberty’s exercise of the franchise in Lebanon and Hanover, some of which require Liberty to file regular reports with the Commission. For example, the Order “require[s] Liberty to report to the Commission

¹ *See, e.g.*, Liberty’s prior LCIRP that projected substantial growth (Docket No. DG 13-313); Liberty’s petition to serve Windham and Pelham (DG 15-362); the Managed Expansion Program filing (DG 16-447); the Company’s efforts to expand in Keene as litigated in the EnergyNorth rate case (DG 17-048), and this docket.

whenever its revenues from customers in Hanover and Lebanon fall to 40 percent of its revenue requirement or below for each phase,” and requires “Liberty [to] file updated DCF analyses at the in-service date of each of Phases One and Two, respectively, and annually thereafter, until ordered otherwise.” Order at 18. The Order also incorporated the requirements from Order No. 26,065 (Oct. 20, 2017) that Liberty “provide all final plans for engineering, construction, installation, testing, operations, public awareness, maintenance, emergency response, procedures, and schematics, including qualifications and training of personnel, in sufficient detail as requested by the Commission’s Safety Division.” Order at 20.

11. In addition to these reporting requirements, Liberty has an obligation to follow all Commission orders, including the Order’s requirements not to commence construction until the various customer commitments have been met. The specific requirements of the Order combined with Liberty’s undisputed obligation to follow Commission orders provide ample assurance that Liberty will not stray from the Order’s directives and ample opportunity for the Commission to monitor and ensure Liberty’s compliance. Thus, the Commission’s decision not to impose further procedural requirements was reasonable. Mr. Chaffee’s second reason for rehearing should be rejected.

12. Mr. Chaffee’s third and final argument for rehearing was Liberty’s oversight in filing less-redacted versions of the initial documents in this docket. Liberty has this date filed those documents with substantially fewer redactions subject to an appropriately modified motion. These documents satisfy the Order’s requirement to “file the protected documents with more limited redactions,” Order at 26, and the delay in filing these less-

redacted documents did not prejudice any party. Thus, Mr. Chaffee's third argument also does not support a request for rehearing.

WHEREFORE, Liberty respectfully asks that the Commission:

- A. Deny Mr. Chaffee's motion for rehearing; and
- B. Grant such other relief as is just and reasonable.

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

By its Attorney,



Date: April 11, 2018

By: _____
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Certificate of Service

I hereby certify that on April 11, 2018, a copy of this objection has been electronically forwarded to the service list.



By: _____
Michael J. Sheehan