

THE STATE OF NEW HAMPSHIRE

BEFORE THE

PUBLIC UTILITIES COMMISSION

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

Docket No. DG 14-_____

**MOTION FOR PROTECTIVE ORDER AND CONFIDENTIAL TREATMENT
REGARDING LEASE AGREEMENT AND SPECIAL CONTRACT**

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities (“Liberty” or the “Company”), in accordance with Puc 203.08, hereby moves the New Hampshire Public Utilities Commission (the “Commission”) to grant protective treatment to certain confidential information contained in a Special Contract and Lease Agreement between the Company and Innovative Natural Gas, LLC d/b/a iNATGAS (“iNATGAS”). In support of this motion, the Company states as follows:

1. On April 2, 2014, the Company entered into a Special Contract and a Lease Agreement with iNATGAS pursuant to which iNATGAS will construct and operate a compressed natural gas vehicle fueling station on the Company’s property in Concord, New Hampshire. Contemporaneous with this motion, the Company has filed a Petition for Approval of the Special Contract and Lease Agreement as well as the Direct Testimony of William J. Clark and Stephen R. Hall.

2. Under the terms of the Special Contract, iNATGAS will become a firm transportation customer of the Company for a term of 15 years, and a sales customer for one year. iNATGAS will pay the Company a per therm rate for the 15 year term of the Special Contract, which charge deviates from the Company’s current tariffed transportation rate for G-54

customers. The Special Contract also contains certain take or pay minimums during the term of the contract. By this motion, the Company requests that the Commission grant a protective order prohibiting the public disclosure of the per therm transportation rate, the maximum hourly transportation quantity set forth in the Special Contract, and the amount of rent in the Lease Agreement.

3. RSA 91-A:5,IV exempts from public disclosure records that constitute confidential, commercial, or financial information. Based on *Lambert v. Belknap County Convention*, 157 N.H. 375 (2008), the Commission applies a three-step analysis to determine whether information should be protected from public disclosure. *See, e.g. Public Service Company of New Hampshire*, Order No. 25,313 at 11-12 (December 30, 2011). The first step is to determine if there is a privacy interest at stake that would be invaded by the disclosure. If such an interest is at stake, the second step is to determine if there is a public interest in disclosure. The Commission has held that disclosure that informs the public of the conduct and activities of its government is in the public interest; otherwise, public disclosure is not warranted. *Public Service Company of New Hampshire*, Order 25,167 at 3 (November 9, 2010). If both of these steps are met, the Commission balances those interests in order to weigh the importance of keeping the record public with the harm from disclosure of the material for which protection is requested. *Id.* at 3-4.

4. Applying this three part test, the first inquiry is whether there is a privacy interest in the per therm charge and the daily maximum hourly transportation quantity. In this case, the per therm rate that iNATGAS is willing to pay reflects its assessment of not only its costs to construct and operate the CNG refueling station, but what it can expect to charge its customers for the fuel. 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. Unlike gas stations, where prices are publicly posted, the CNG refueling market is highly competitive and the cost of CNG at any given facility is not publicly posted. Competitors who know one component of a CNG suppliers rate can take that information and combine it with publicly available components of their rates to develop an estimate of the CNG suppliers “all in” rate. Thus, in order to protect iNATGAS’ ability to competitively market its product, the Company must maintain in confidence what iNATGAS is paying for the delivery of gas to it. Similarly, the maximum hourly transportation quantity in the Special Contract, if disclosed, could allow iNATGAS’s competitors to calculate the fill rate for iNATGAS’s trailers. CNG is a very competitive market and any advantage one company has over another will be exploited, including fill times. In light of the above, it is fair to conclude that iNATGAS has a privacy interest in this information.

5. The next step in the analysis is to consider whether there is a public interest in disclosure of the information, including whether release of the information lends any insight into the workings of government as it relates to this case. Here, public disclosure of this information would not materially advance the public’s understanding of the Commission’s analysis in this proceeding. The Company is releasing publicly the results of its financial analysis of the transaction, including the time frame for the Company’s recovery of its costs of the project. Disclosure of the perm therm transportation rate and the daily quantities of gas delivered to iNATGAS does not shed light on how the Commission works. The work that the Commission undertakes to review this transaction will be publicly available and as a result the Commission’s work will be available for public scrutiny. Even were one to conclude that there is a public interest in disclosure of the contract delivery quantities and per therm charge, the harm that could occur as a result of that disclosure is outweighed by the privacy interests at stake. As explained

in Mr. Clark's testimony, the CNG marketplace is highly competitive and it is advantageous to the Company and its customers to be able to develop this business. If such essential business terms were disclosed, it might serve to discourage these types of business opportunities in the future, which is not a desirable outcome.

6. The Company also seeks to protect from disclosure the monthly lease payment to be made by iNATGAS. As in the case of the Special Contract terms, the amount of rent paid by iNATGAS is another element of its cost for the project that is factored into its pricing, and thus is commercial, financial information as those terms are contemplated under RSA 91-A:5,IV. If the rent were disclosed, competitors could use that as another piece of iNATGAS's financial puzzle to attempt to determine its customer pricing for the Broken Bridge Station. This is a cognizable privacy interest. Like the per therm charge and the delivery quantity, release of the rent amount in and of itself does not reveal the workings of the Commission. The public will still have full access to any analysis conducted by the Staff of this transaction and whether it is in the public interest. Given the potential harm to iNATGAS that could occur as a result of the disclosure of this information, public disclosure of it is outweighed by such harm.

7. For these reasons, Liberty requests that the Commission issue a protective order preventing the public disclosure of the per therm amount, the maximum daily quantity and the amount of rent, all to be paid by iNATGAS to the Company.

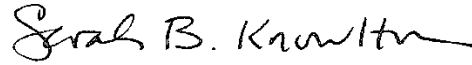
WHEREFORE, Liberty respectfully requests that the Commission:

- A. Grant this Motion for Protective Order and Confidential Treatment; and
- B. Such other relief as is just and equitable.

Respectfully submitted,

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

By its Attorney,



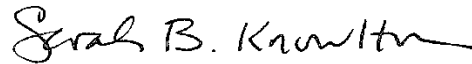
Date: April 4, 2014

By: _____

Sarah B. Knowlton
Assistant General Counsel
Liberty Energy Utilities (New Hampshire) Corp.
11 Northeastern Boulevard
Salem, NH 03079
Telephone (603) 328-2794
sarah.knowlton@libertyutilites.com

Certificate of Service

I hereby certify that on April 4, 2014, a copy of this Motion has been forwarded to the Consumer Advocate.



Sarah B. Knowlton