

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

Docket No. DG 14-091

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

Special Contract and Lease Agreement with Innovative Natural Gas, LLC d/b/a iNATGAS

Technical Statement of William J. Clark

January 5, 2017

The purpose of this technical statement is to explain the circumstances surrounding the attached *Amendment to Special Contract - Natural Gas - Firm Transportation* (the “Amendment”).

In Order No. 25,694 (July 15, 2014), the Commission approved a *Special Contract - Natural Gas - Firm Transportation* (the “Special Contract”) and other related agreements between Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities and Innovative Natural Gas d/b/a iNATGAS. The Special Contract can be found at Hearing Exhibit 2, Bates page 55 (hereinafter “Ex. 2 at 55”).

The Commission summarized the terms of the Special Contract that are relevant here:

Under the proposed Special Contract, Liberty will provide firm transportation of CNG to iNATGAS’s CNG fueling station for a term of 15 years, and iNATGAS will be a sales customer of Liberty for one year. iNATGAS will pay a fixed delivery charge in excess of the amount charged under Liberty’s tariff for all gas metered at the delivery point. This fixed charge will remain in effect for the term of the contract and is not subject to any adjustments. Under “take or pay” provisions of the Special Contract, iNATGAS will be required to take (that is, buy and make use of) or pay for (that is, pay a monetary penalty to Liberty equivalent to the cost of) at least 300,000 dekatherms (Dth) of gas for each of the first two years of the Special Contract. For the following two years, iNATGAS

will be required to take or pay for at least 500,000 Dth per year. In year five of the Special Contract, iNATGAS will be required to take or pay for at least 1,300,000 Dth per year. The Special Contract rate, which is higher than Liberty's tariff rate, is intended to compensate Liberty for its investment. Liberty's responsibilities under the agreement include buying the CNG compressors and building related electrical and gas facilities necessary to serve iNATGAS.

Order No. 25,694 at 3 (citations to the record omitted).

The parties signed the Amendment to address four issues with the Special Contract.

The first two changes address issues that arose because it took longer to construct the CNG station than the parties anticipated. These changes to related provisions of the Special Contract preserve and clarify the parties' intent to have the initial take-or-pay period begin to run when the CNG station was ready for service, i.e., the "Service Commencement Date," and for that period to last a full 24 months.

First, the precise Service Commencement Date was not known when the parties signed the Special Contract, so the definition of that phrase is, "the date that the gas meter is turned on ... and an account number is assigned to the Customer." Ex. 2 at 58. Now that construction is complete, a meter has been turned on, and an account number has been assigned, the Service Commencement Date is known, so the Amendment affirmatively states: "The Service Commencement Date is December 1, 2016." Although this is not a substantive change in the Special Contract, it is a clarification that will help with administration of the contract as the years pass.

Second, a sentence in the paragraph describing "Interval 1" put an outside time limit for completing that first take-or-pay period which time limit is now impossible to reconcile with the parties' clear intent to have Interval 1 last 24 months. Before the Amendment, that sentence in

the Special Contract reads: “But in any event the end of Interval 1 shall not extend beyond December 31, 2016.” Ex. 2 at 58. Since the Service Commencement Date is December 1, 2016, it is impossible to have Interval 1 last 24 months and “not extend beyond December 31, 2016.” The Amendment cures this impossibility by simply deleting the quoted sentence. With this sentence deleted, the Special Contract clearly provides that “Interval I is the time period beginning on the Service Commencement Date, as defined herein, and ends twenty-four (24) calendar months following the Service Commencement Date,” that Interval 2 “begins with the end of Interval 1 and continues for twenty-four (24) calendar months,” and that “Interval 3 begins with the end of Interval 2 and extends for the remaining term of this Special Contract” Ex. 2 at 58.

Third, the Amendment adds a clause to the Special Contract to affirmatively state that iNATGAS is responsible to pay a customer charge but not charges collected under Liberty Utilities’ Local Delivery Adjustment Clauses (LDAC). This was the parties’ intent. Liberty Utilities witness William J. Clark testified that, “Under the existing rate structure, iNATGAS would be a G-54 customer.” Ex. 2 at 16. As a G-54 customer, iNATGAS must pay the applicable customer charge, although that was not stated.

Finally, the Amendment updates the contact information for Liberty Utilities, which has changed since the Special Contract was signed in 2014.