

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

**IBERDROLA USA ENTERPRISES, INC.**

**-and-**

**LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP.**

**Docket No. DG 14-\_\_\_**

**JOINT PETITION FOR AUTHORITY TO TRANSFER OWNERSHIP  
OF NEW HAMPSHIRE GAS CORPORATION  
TO LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP.**

**June 6, 2014**

### **Introduction**

Iberdrola USA Enterprises, Inc., ("Iberdrola"), New Hampshire Gas Corporation ("NHGC"), and Liberty Utilities (EnergyNorth Natural Gas) Corp. ("EnergyNorth") (collectively, the "Joint Petitioners") hereby apply to the New Hampshire Public Utilities Commission (the "Commission") for authority to transfer the ownership of all of the issued and outstanding stock of NHGC to EnergyNorth (the "Stock Transfer") and to grant such other approvals as may be necessary to complete the Stock Transfer.

### **Overview of Transactions**

The Stock Transfer is structured as a purchase by EnergyNorth for cash of all of the issued and outstanding capital stock of NHGC from Iberdrola. Immediately following the consummation of the Stock Transfer, NHGC will be merged with and into EnergyNorth and will continue to provide propane air service in NHGC's existing franchise territory under the same terms and conditions of its existing tariff. EnergyNorth will finance the purchase of the stock with cash and thus there will be no financing approval associated with the Stock Transfer.

Upon closing, EnergyNorth plans to operate NHGC in the same manner in which it is operated today, with the exception of bringing "in-house" certain utility functions such as engineering, regulatory, finance and legal, which NHGC currently receives from Iberdrola and its affiliates or from third party consultants and contractors. EnergyNorth will adopt the NHGC tariff with regard to the service territory currently served by NHGC, with the only substantive change being a change in the company's name. As a result, immediately upon the closing, NHGC customers will continue to pay the same rates and be served under the same terms and conditions as they are presently served. As described in detail in the testimony that accompanies this Joint Petition, EnergyNorth has the financial

ability to acquire the stock of NHGC, and the financial, managerial and technical ability to operate the NHGC system. The transfer is in the public interest because EnergyNorth will provide safe and reliable utility service to customers, and those customers will be served by a New Hampshire utility that has substantial resources and expertise in the operation of natural gas and propane systems within a little over an hour from the NHGC system.

### **The Joint Petitioners and Related Parties**

1. Iberdrola is a holding company incorporated in the state of Maine, and is an indirect, wholly-owned subsidiary of Iberdrola, S.A., which is incorporated in Spain. Iberdrola, S.A.'s United States business is conducted through Iberdrola USA, Inc., which provides natural gas service to customers in New England and New York through a number of indirectly owned subsidiaries, including NHGC.

2. NHGC is a New Hampshire corporation and a public utility as defined in RSA 362:2. It provides retail gas service to approximately 1,200 customers in Keene, New Hampshire through a propane air system (the "Keene System").

3. EnergyNorth is a New Hampshire corporation and a public utility as defined in RSA 362:2. It provides retail gas service to approximately 86,000 customers in 30 communities throughout Southern and Central New Hampshire and in Berlin, New Hampshire. EnergyNorth is wholly owned by Liberty Energy Utilities (New Hampshire) Corp, which itself is indirectly owned by Algonquin Power and Utilities Corp.

### **The Stock Transfers**

4. On April 9, 2014, Iberdrola and EnergyNorth entered into a stock purchase agreement for the sale and purchase of capital stock of NHGC (the "Purchase Agreement") which is included as Joint Petitioners' Attachment 1 in the supporting materials that are being submitted to the Commission contemporaneously with this Joint Petition. Pursuant

to the Purchase Agreement, Iberdrola will sell all of its shares in NHGC to EnergyNorth for the aggregate purchase price of Three Million Dollars (\$3,000,000) in cash, adjusted based on NHGC's net working capital and financial indebtedness as of the date of closing. The Purchase Agreement is subject to several customary closing conditions, including obtaining requisite regulatory approvals. The Purchase Agreement contemplates a closing on or before January 4, 2015, but the parties are working toward a closing in late fall, subject to receipt of all necessary approvals.

5. Upon consummation of the Stock Transfer, NHGC will be merged into EnergyNorth and will cease to exist as a separate legal entity. As a result of the merger, EnergyNorth will assume all of the rights and obligations of NHGC.

**Standard of Review and Basis for Approval of Transactions**

6. RSA 374:30 provides in relevant part:

Any public utility may transfer or lease its franchise, works or system, or any part of such franchise, works or system, exercised or located in this state, or contract for the operation of its works and system located in this state, when the commission shall find that it will be for the public good and shall make an order assenting thereto, but not otherwise.

7. The Commission has previously ruled that "[t]he transfer of the entire stock of companies is in essence a transfer of the entire assets of both utilities which includes the works, the systems and the franchises of both utilities" and thus, RSA 374:30 governs stock acquisitions involving public utilities. *Gas Service, Inc.*, 67 NH PUC 730, 732 (1982). RSA 374:33 provides, in part, that:

No public utility or public utility holding company as defined in section 2(a)(7)(A) of the Public Utility Holding Company Act of 1935 shall directly or indirectly acquire more than 10 percent, or more than the ownership level which triggers reporting requirements under 15 U.S.C., section 78-P, whichever is less, of the stocks or bonds of any other public utility or public utility holding company incorporated in or doing business in this state,

unless the commission finds that such acquisition is lawful, proper and in the public interest.

In the present case, EnergyNorth, a New Hampshire public utility, proposes to acquire 100% of the issued and outstanding stock of NHGC, another New Hampshire public utility, and therefore RSA 374:33 is directly applicable to this transaction.

8. The public good standard "is analogous to the 'public interest' standard... applied and interpreted by the Commission and by the New Hampshire Supreme Court." *Consumers New Hampshire Water Company*, 82 NH PUC 814, 816 (1977) (citing *Waste Control Systems, Inc. v. State*, 114 N.H. 21, 22-23 (1974)). "The [relevant] test requires a finding that a transaction is one not forbidden by law and is reasonably permitted under all the circumstances of the case and 'a finding that, based upon the totality of the circumstances there is no net harm to the public as the result of the transaction." *Id.* at 817. "Under the public interest or public good standard to be applied by the Commission where an individual or entity seeks to acquire a jurisdictional utility, the Commission must determine that the proposed transaction will not harm ratepayers." *Pennichuck Corp.*, 83 NH PUC 44, 44 (1998).

#### **The Proposed Transaction Is Consistent with the Public Good**

9. The Stock Transfer is consistent with the public good because it will result in no net harm to the public and, in fact, will benefit customers because, as is set forth in detail in the written testimony accompanying this Joint Petition, the transactions will result in (i) NHGC being merged into a New Hampshire utility that is operated within close proximity to the Keene System and is committed to having a local presence, (ii) the Keene System's access to significant engineering and operational expertise nearby in Southern New Hampshire, (iii) the availability of significantly expanded propane storage options for

the Keene System which may result in lower propane costs to customers and an enhanced ability to comply with Commission storage rules, (iv) enhanced benefits to and opportunities for the current employees of the Keene System, (v) ownership by an entity committed to investing the capital necessary to provide supply options to serve the Keene System in the future, including the potential to switch the system to liquefied natural gas and/or compressed natural gas, (vi) the potential to expand the existing Keene System to other customers in the area, thereby creating a larger customer base across which to spread its costs and provide lower cost fuel options to the public in Keene, and (vii) the potential for decreased rates for current NHGC customers and a lower overall revenue requirement, by avoiding the need to reflect the KPC settlement amount into rates if the acquisition closes, and the potential for a diversity of lower cost supply for customers.

10. As described in EnergyNorth's prefiled direct testimony submitted with this Joint Petition, immediately upon closing, EnergyNorth plans to operate the Keene System in the same manner in which it is operated today by NHGC's current employees. Customers will be billed through the current NHGC billing system and will not be transitioned to EnergyNorth's customer billing system until nine to twelve months following approval of the acquisition. Employees of NHGC will become employees of Liberty Energy Utilities (New Hampshire) Corp. and will receive benefits in the same form as other employees who provide services to EnergyNorth, including participation in a pension plan, a benefit not currently available to employees of NHGC.

11. Post-closing, EnergyNorth will immediately begin providing all engineering, regulatory, finance, and legal services to the Keene System, which were previously provided either through an affiliate or through third party vendors. These

services will be provided by Liberty Energy Utilities (New Hampshire) Corp., EnergyNorth's parent. The day-to-day operation of the Keene System will be performed by the same employees who currently serve it, though EnergyNorth's well-established operations and engineering department will have significant resources to make available to the Keene System on an as-needed basis from EnergyNorth's facilities in Southern New Hampshire. These services will include system and operational engineering, meter calibration, and SCADA control, among others.

12. The Keene System will be supplied with propane air from NHGC's current source of supply for the immediate future. EnergyNorth will provide access to additional propane storage to the Keene System, which will enhance the ability of the Keene System to comply with Commission 7 day storage requirements, and potentially lower the cost of gas to customers by providing more flexibility on supply options. As described in detail in EnergyNorth's testimony, after approval of the acquisition, the Company will perform an analysis of the cost of supplying the Keene System with CNG and/or LNG to determine whether such a switch in supply will be beneficial to customers.

13. EnergyNorth will not seek any rate changes that could impact NHGC customers as part of this proceeding, or rate recovery of any acquisition premium or transaction costs arising from the Stock Transfer. After the closing, NHGC customers will continue to receive the services currently provided on the same terms and conditions pre-closing. EnergyNorth intends to adopt the current NHGC tariff in its entirety, with limited changes.

14. One benefit mentioned above is that EnergyNorth will not seek rate recovery of any costs incurred by Iberdrola on behalf of NHGC relating to the recent

amendment to and extension of NHGC's arrangement with Keene Propane Corporation to supply propane to NHGC. Those costs, for which Iberdrola intended to seek recovery through NHGC's cost of gas recovery mechanism, will not be pushed down to NHGC prior to or following this transaction and, therefore, will not be included in any rate recovery request submitted by NHGC or EnergyNorth after the transaction is consummated, as long as this transaction is ultimately approved and is consummated.

**Request for Relief**

For all the reasons stated above and in the written direct testimony submitted contemporaneously herewith, the Joint Petitioners respectfully request that the Commission:

- (a) Find that the acquisition of the stock of NHGC by EnergyNorth will be in the public interest;
- (b) Authorize Iberdrola to transfer all of the issued and outstanding stock of NHGC to EnergyNorth in accordance with the Purchase Agreement, and;
- (c) Grant such other and further relief as may be consistent with the public interest.

Dated: June 6, 2014

Respectfully Submitted,

IBERDROLA USA  
ENTERPRISES, INC.

MCLANE, GRAF, RAULERSON &  
MIDDLETON, PROFESSIONAL  
ASSOCIATION

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Dated: June 6, 2014

LIBERTY UTILITIES  
(ENERGYNORTH NATURAL  
GAS) CORP.

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**Certificate of Service**

I hereby certify that on this 6th day of June 2014, a copy of this Joint Petition for Authority to Transfer Ownership of New Hampshire Gas Corporation to Liberty Utilities (EnergyNorth Natural Gas) Corp. and for Related Approvals has this day been sent electronically to the Office of Consumer Advocate.

  
Patrick H. Taylor