

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

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 provided in connection with the Company’s 2014-2015 Winter Cost of Gas filing. In support of this motion, the Company states as follows:

1. In its 2014-2015 Winter Cost of Gas filing, the Company has included costs associated with its share of the remediation expense at the Keene, New Hampshire manufactured gas plant site, which was the result of a February 27, 2014 settlement agreement between the Company and Public Service of New Hampshire (“PSNH”). The Company is submitting this Motion for Protective Order and Confidential Treatment requesting the Commission afford confidential treatment to the settlement agreement on the basis that it constitutes “confidential, commercial, or financial information” as defined in RSA 91-A:5,IV. A copy of the settlement agreement is attached to the testimony of Mary E. Casey.

2. 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. *See, e.g. 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.

3. Applying this three-part test, the first inquiry is whether there is a privacy interest in the settlement agreement. The Company has a privacy interest in the settlement agreement because it reflects all the terms upon which the Company is willing to compromise its environmental remediation liability. If this information is disclosed, it will place the Company in a compromised negotiating position during settlement discussions in any future cases because it will give opponents insight not only into the issues upon which the Company will settle, but the specific terms of the settlement. This is contrary to both the Company and its customers' interests, because costs of environmental settlements have typically been included in the Company's rates.

4. 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 the terms of the

settlement would not materially advance the public's understanding of how the Commission conducts its work in this case. The Commission Staff does not typically file testimony in cost of gas proceedings but rather issues discovery and conducts examination of Company witnesses at the hearing, both of which the public will have access to, with the exception of specific questions on confidential information. Because this review is available to the public, release of the settlement agreement itself does not provide insight to the public regarding how the Commission conducts its work.

5. Even if one were to conclude that there is a public interest in disclosure of the settlement agreement, that public interest is outweighed by the harm that could occur as a result of that disclosure. As explained above, if the Company were required to make public the terms of the settlement agreement, it could compromise its ability to negotiate favorable settlement terms in the future, a harm that will inure to its customers as the costs of environmental settlements have typically been included in customer rates. The Commission has recognized that the balancing of the interests in these exact circumstances weighs in favor of protection of environmental settlement agreements. *See, e.g., EnergyNorth Natural Gas, Inc.*, DG 03-160, Order No. 24,215 at 12-13 (Oct. 2, 2003); *EnergyNorth Natural Gas, Inc.*, 99-132, Order No. 23,316 at 5-6 (Oct. 11, 1999). There is no compelling reason why the Commission should deviate from its treatment of similar settlement agreements in the past.

6. For these reasons, Liberty requests that the Commission issue a protective order preventing the public disclosure of the settlement agreement with PSNH.

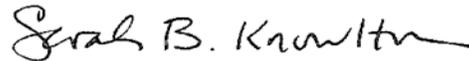
WHEREFORE, Liberty respectfully requests that the Commission:

- 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,



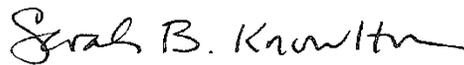
Date: September 2, 2014

By: _____

Sarah B. Knowlton
Assistant General Counsel
Liberty Energy Utilities (New Hampshire) Corp.
15 Buttrick Road
Londonderry, New Hampshire
Telephone (603) 216-3631
sarah.knowlton@libertyutilites.com

Certificate of Service

I hereby certify that on September 2, 2014, a copy of this Motion has been forwarded to the Consumer Advocate via electronic mail.



Sarah B. Knowlton