

THE STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

Docket No.: DG 15-494

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

Petition for Approval of Firm Transportation Agreement

PETITION TO INTERVENE
OF BROOKLINE, FITZWILLIAM, GREENVILLE, LITCHFIELD, MASON,
MILFORD, NEW IPSWICH, PELHAM, RICHMOND, RINDGE, TEMPLE, TROY, AND
WINCHESTER AS THE NEW HAMPSHIRE MUNICIPAL PIPELINE COALITION

Pursuant to the New Hampshire Public Utilities Commission's (the "Commission") Order of Notice ("Order") dated December 17, 2015, N.H. Code Admin. Rules Puc 203.17, and RSA 541-A:32, the towns of Brookline, Fitzwilliam, Greenville, Litchfield, Mason, Milford, New Ipswich, Pelham, Richmond, Rindge, Temple, Troy, and Winchester individually, and as members of the New Hampshire Municipal Pipeline Coalition ("Coalition Towns"), hereby petition for leave to intervene in the above-captioned proceeding. In support of its petition, the Coalition Towns state the following:

1. The Coalition Towns are municipal corporations duly organized pursuant to New Hampshire state law.
2. The New Hampshire Municipal Pipeline Coalition ("NHMPC") is a voluntary unincorporated association of municipalities with the purpose of preserving and protecting the interests of our residents, including health and welfare concerns, potential costs and other likely impacts associated with the NED pipeline (as defined below).
3. On December 8, 2015 Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities ("Liberty") filed with the Commission a petition for approval (the

“Petition”) of a firm transportation agreement (the “Precedent Agreement”) with Tennessee Gas Pipeline Company, LLC (“Tennessee”) and a determination that Liberty’s decision to enter the Precedent Agreement is “prudent, reasonable and consistent with the public interest.” Liberty is seeking final approval from the Commission of its decision to enter into the Precedent Agreement by April 2, 2016.

4. As set forth in the Petition, the Precedent Agreement consists of a 20-year contract between Liberty and Tennessee pursuant to which Liberty would purchase from Tennessee on a firm basis up to 78,000 Dth per day of capacity. Liberty is seeking the Commission’s advance approval of the Precedent Agreement given the alleged “magnitude of the investment” Liberty claims is required in connection with this transaction.
5. As set forth in the Order, this proceeding will require the Commission to address issues related to RSA 374:1 and 374:2 (public utilities to provide reasonably safe and adequate service at “just and reasonable” rates); RSA 374:4 (Commission’s duty to keep informed of the manner in which all public utilities in the state provide for safe and adequate service); RSA 374:7 (Commission’s authority to investigate and ascertain the methods employed by public utilities to “order all reasonable and just improvements and extensions in service or methods” to supply gas); and 378:7 (rates collected by a public utility for services renders to be rendered must be just and reasonable). As the Commission further noted, each of these issues include a determination as to whether Liberty reasonably investigated and analyzed its long term supply requirements and the available alternatives for satisfying these

requirements, and whether Liberty's entry into the Precedent Agreement is prudent, reasonable and otherwise consistent with the public interest.

6. New Hampshire Code of Administrative Rules, Puc 203.17 states that the Commission shall grant one or more petitions to intervene in accordance with the standards of RSA 541-A:32. Pursuant to RSA 541-A: 32 I (b) and (c), a petition *must* be granted if the petitioner states facts demonstrating how its rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding (or the petition qualifies under any provision of the law) and the interests of justice and orderly and prompt conduct of the proceedings would not be impaired by allowing intervention. Alternatively, RSA 541-A:32 II states that the Commission *may* grant a petition to intervene "at any time, upon determining that such intervention would be in the interests of justice and would not impair the orderly conduct of the proceedings."
7. The firm transportation services contemplated by the Precedent Agreement would derive from Tennessee's proposed Northeast Energy Direct ("NED") pipeline project, which is currently under review by the Federal Energy Regulatory Commission ("FERC"), Docket No. CP16-21-000. NED is a high-pressure natural gas pipeline proposed by Tennessee to run from Pennsylvania through the states of New York, New Hampshire, and Massachusetts, ending in Dracut, Massachusetts where it could join with existing pipelines that connect to the Massachusetts and Canadian coasts. In addition to the main transmission line, NED is proposed to include several lateral lines, as well as the construction of nine new compressor stations along the route.

Tennessee's current preferred route for the NED pipeline traverses over 70 miles (not including laterals) through the state of New Hampshire.

8. The NED pipeline is comprised of both the Supply Path and Market Path projects, and Tennessee filed an Application for a Certificate of Public Convenience and Necessity with FERC on November 20, 2015 to request authorization to build both segments of the NED project. The Supply Path Project will transport gas from the Marcellus Shale production area in northeastern Pennsylvania to a natural gas market center location, or price point, in Wright, New York, which is in turn the necessary and designated receipt point for the Market Path Project. The Market Path portion of NED will transport natural gas from Wright, New York, to the market center location in Dracut, Massachusetts that serves the New England markets. The Petition states that the "decision to procure capacity on the Supply Path Project was based on its analysis of the potential cost savings that could be obtained for its customers by procuring transportation capacity upstream of the Market Path Project". See Petition at ¶ 5. In other words, the viability of both segments is intertwined with one another as part of the overall NED pipeline.
9. The Coalition Towns are located along the proposed NED route depicted on Attachment FCD-1 of the Petition, and are obligated by law to protect the health, safety and welfare of citizens in their communities and these interests will be substantially impacted by the construction, operation and maintenance of the NED pipeline.
10. The Coalition Towns and their citizens own property that will be adversely impacted and taken by Tennessee, either by sale or by eminent domain – to facilitate

construction of the NED project. Because their property rights are specifically affected by the NED pipeline and the Commission's approval of the Precedent Agreement, the Coalition Towns and its citizens have a direct and substantial interest in the outcome of this proceeding.

11. The Coalition Towns are also substantially affected by Liberty's franchise expansion plans in connection with the NED project. Some towns, such as Rindge, Winchester and Pelham, are already the subject of ongoing franchise expansion proceedings. *See* DG 15-442, *See also* DG 15-362. Others, have been identified by Liberty as "new franchise potential", including Richmond, Troy, Fitzwilliam, New Ipswich, Greenville, and Brookline. *See*, for example, DG-14-380, Response to Staff Data Requests – Set 1, Attachment Staff 1-11. A few of the Coalition Towns are also existing Liberty ratepayers¹, including Litchfield, Merrimack, and Milford. Therefore, as existing, future, and potential end users who will be financially impacted by the outcome of this proceeding, the Coalition Towns and their citizens would have a *per se* right to intervene in this action and accordingly, intervention by the Coalition Towns on behalf of its citizens is therefore proper in this case.

12. Intervention will allow the Coalition Towns to protect their interests in the financial, physical, and environmental impacts resulting from Liberty's Precedent Agreement with Tennessee and the ramifications of constructing and operating the NED pipeline across property owned by the Coalition Towns and their citizens. Intervention will serve the interests of justice and will not impair the orderly and prompt conduct of the

¹ *See* NHPUC No. 8 – Gas Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities Superseding NHPUC No. 7 (Tariff for Gas Service Applicable in Thirty towns in New Hampshire served in whole or in part), pp. 7, Issued July 6, 2015.

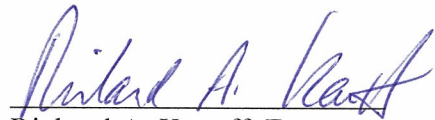
proceedings, and therefore the Coalition Towns, as the NHMPC, seek to participate as full intervenors in this matter and as appropriate file comments, attend conferences, participate in hearings and submit briefs. *See Joint Petition for Approval of Sale to Village District of Eastman and Exemption from Further Regulation*, Docket No. 13-171 (customers affected by the sale of the sewer company were granted intervention as an unincorporated association, the “Eastman Sewer Users Coalition”).

13. Alternatively, the facts and circumstances surrounding Liberty’s Petition establish that the Coalition Towns’ intervention as the NHMPC should be granted pursuant to the Commission’s discretionary authority under RSA 541-A32 II. The Coalition Towns have timely requested intervention in this proceeding, and have identified specific interests that will be affected by the Commission’s ultimate determination. Moreover, under a general principle of state and municipal comity, the Coalition Towns as the NHMPC ought to be granted intervention in this proceeding in order to have real time access to the record and the ability to examine issues of concern to them.
14. By filing for intervenor status together as the NHMPC, the Coalition Towns will further promote efficiency in the progress of this docket.
15. For the above reasons, the Coalition Towns request that they be allowed to intervene as the NHMPC.

WHEREFORE, the Coalition Towns as the NHMPC respectfully request that the New Hampshire Public Utilities Commission grant their timely Petition to Intervene and permit the Coalition Towns as the NHMPC to participate in this proceeding with full rights as a party and grant such other relief as may be just and reasonable.

Respectfully Submitted,

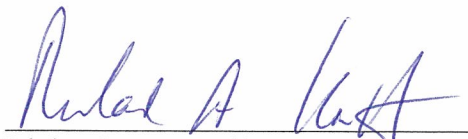
**Towns of Brookline, Fitzwilliam,
Greenville, Litchfield, Mason,
Milford, New Ipswich, Pelham,
Richmond, Rindge, Temple, Troy,
and Winchester as the NHMPC.**



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Certificate of Service

I hereby certify that on December 31, 2015, pursuant to Puc 203.02 & 203.11, I served an electronic copy of this Petition on each person identified on the Commission's service list for this docket and with the Office of the Consumer Advocate, by delivering it to the email address specified on the Commission's service list for the docket.



Richard A. Kanoff