

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 16-223

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

**Petition for License to Construct and Maintain a
Natural Gas Pipeline Beneath the Soucook River in Two Locations**

Order *Nisi* Granting License

ORDER NO. 25,925

July 26, 2016

In this order *nisi*, the Commission grants the request of Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities (Liberty), for a license to construct and maintain a natural gas pipeline beneath the public waters of the Soucook River in Loudon, New Hampshire. This order is being issued on a *nisi* basis to ensure that all interested parties receive notice of the Commission's order and have the opportunity to comment or request a hearing prior to the date set forth for comment in the ordering clauses below.

I. SUMMARY OF PETITION

On February 10, 2016, Liberty filed a petition pursuant to RSA 371:17 requesting authority to construct and maintain a single natural gas pipeline beneath and across two locations on the Soucook River in Loudon, New Hampshire. Liberty intends to increase the flow capacity of a 50-year old, 6-inch diameter gas main by installing a new 12-inch diameter gas main. The original line is part of a 22 mile project that runs between Concord and Tilton known as the Hi-Line pipeline. The pipeline installation proposed in the petition is a multi-year, long-term capital project referred to as the "Tilton Hi-Line Reliability Project." The petition indicated that, as part of that project, Liberty has installed approximately 7 miles of pipe running from Broken

Bridge Road in Concord to the intersection of Josiah Bartlett Road and Route 106 in Loudon in 2003 and 2004 (Phase 1).¹

According to the petition, Liberty plans to complete a 5.5-mile segment of the project running from the existing 12-inch steel gas main at Josiah Bartlett Road along the east side of Route 106 for approximately 5 miles, then westerly on Shaker Road for another 3,200 feet, ending at a regulator station at Old Shaker Road in Loudon. The petition asserted that the project will also cross Shaker Brook; however, Shaker Brook is not subject to RSA 371:17 since it is not on the list of “public waters” published by the New Hampshire Department of Environmental Services (NHDES).

Liberty serves approximately 4,500 customers at the termination of the Hi-Line pipeline, and approximately 130 more customers along the Hi-Line pipeline in the Towns of Loudon, Canterbury, and Northfield. Liberty currently operates liquefied natural gas (LNG) vaporization and propane air plants in Tilton that were designed to supplement pipeline natural gas supplies during times of peak demand, but have also been used for pressure support. Liberty maintained that the project is necessary because the LNG and propane plants have operated more frequently over the last several years, mainly to support low pressure on cold days. The project will improve reliability by reducing the need for pressure support during cold days, and thus increase winter reliability. Liberty also asserted that the new line will allow for future growth.

Liberty filed attachments and exhibits with its petition depicting technical and design information regarding the proposed construction of the pipeline crossings. Liberty provided

¹ See Order No. 24,195 (July 28, 2003).

Commission Staff (Staff) with supplemental information during the course of Staff's review.²

On June 15, 2016, Staff filed a memorandum summarizing its review of the petition and recommending that the license be granted subject to certain specified conditions. The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted to the Commission's website at <http://puc.nh.gov/Regulatory/Docketbk/2016/16-223.html>.

A. Crossing Location and Construction

Liberty's filing stated that its pipeline project would cross the Soucook River at two locations, each constructed approximately 30 feet under the river bottom using directional boring techniques. One proposed crossing would use a directional bore that extends approximately 1,402 feet along the eastside of Route 106 in the vicinity of the Wales Bridge Road intersection; the actual crossing of the Soucook River at this location is approximately 54 feet. The second proposed crossing would use another directional bore that extends approximately 1,270 feet along the east side of NH Route 106 north of the NH Route 129 intersection; the actual crossing of the Soucook River at this location is approximately 135 feet. The materials for both crossings consist of 12-inch diameter API5L X52 Grade B steel with 0.375-inch wall thickness and 40 mil "powercrete" coating.

B. Regulatory Requirements

Liberty stated that Shoreland Permits were obtained from NHDES, and asserted that no wetlands permit is necessary because the project will not disturb any wetlands. Finally, Liberty represented that at both crossing locations the pipe will be within State of New Hampshire

² In response to Staff data requests, Liberty provided a list of the materials for the construction of the project, final plans for the crossings, signed NHDES Shoreland Permits, and confirmation that all necessary easements had been obtained from NHDOT, including signed Use and Occupancy Agreements.

Department of Transportation (NHDOT) highway rights-of-way adjacent to Route 106, and that it has executed NHDOT Use and Occupancy Agreements for the installation of the facilities.

C. Property Rights

According to Staff, Liberty provided discovery responses demonstrating that all easements and permits are in place to allow for the proposed gas pipeline to be constructed beneath the Soucook River at the two separate locations.

D. Public Interest

According to the petition, the proposed construction and pipeline crossings will not substantially affect the rights of the public in the public waters of the Soucook River. Liberty maintained that the use and enjoyment by the public of the Soucook River will not be diminished in any material respect as a result of Liberty's plans to construct and maintain the proposed pipeline beneath the river. Liberty asserted that all easements for the project have been or will be obtained; therefore, no taking of private property or other acquisition of property rights is required.

II. STAFF'S RECOMMENDATION

Safety Division Staff's memorandum stated it had thoroughly reviewed Liberty's petition and supporting documentation, the applicable statutes and rules, and the requirements of 49 CFR Part 192, the ownership of affected land, and the public need, safety, and impact of the proposed crossings. Staff determined that the proposed construction meets the requirements of 49 CFR Part 192 and applicable state statutes and Commission rules. In conclusion, Staff recommended that Liberty be directed to construct, operate and maintain the crossings in conformance with the applicable sections of 49 CFR Part 192 and N.H. Code Admin. Rules Puc 500 (Rules for Gas Service). Staff also recommended that Liberty use above-ground pipeline markers for

identification of the pipeline with appropriate warning and company contact information along the 5.5 mile project, including on each bank of the two Soucook River crossings.

III. COMMISSION ANALYSIS

Pursuant to RSA 371:17, utilities must obtain a license from the Commission to “construct a pipeline, cable, or conduit, or a line of poles or towers and wires and fixtures thereon, over, under or across any of the public waters of this state, or over, under or across any of the land owned by this state,” whenever such facilities are necessary to meet the reasonable requirements of service to the public. RSA 371:20 authorizes the Commission to grant a license if it “may be exercised without substantially affecting the public rights in said waters or lands.” RSA 371:17 defines public waters to include all ponds of more than 10 acres, tidewater bodies, and such streams or portions thereof that the Commission may prescribe. NHDES prepares, maintains and publishes an official list of all public waters in the state. The Soucook River is a body of water included in this official list, which is maintained at <http://des.nh.gov/organization/commissioner/pip/publications/wd/documents/olpw.pdf>.

Based on the information presented in Liberty’s petition and related filings and Staff’s recommendation, we find that the proposed crossings are necessary for Liberty to meet the reasonable requirements of reliable service to the public, as required under RSA 371:17, and that the requested license may be exercised without substantially affecting the public rights in the affected public waters, as required for approval under RSA 371:20. We therefore approve the petition subject to the conditions contained in the ordering clauses set out below related to ensuring safe construction, operation, and maintenance of the proposed crossings. We issue our decision on a *nisi* basis to provide any interested person the opportunity to submit comments on Liberty’s petition or to request a hearing.

We note that Liberty is responsible for obtaining any and all other permits for the construction and installation of the proposed crossings from any federal, state, and local authorities having jurisdiction. Our approval is only for a pipeline with the specifications proposed by Liberty in this proceeding. Should Liberty wish to make any changes, it must make an appropriate filing. Because NHDES is responsible for maintaining the official list of public waters, we require that notice of the proposed crossings be sent to NHDES. In view of NHDOT's oversight of railroads, roads, and bridges, including land affected by the two river crossings, we require that notice of the proposed construction be sent to NHDOT. We also require notice to be provided to the Town of Loudon.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that, subject to the effective date below, Liberty is authorized, pursuant to RSA 371:17, *et seq.*, to construct, install, operate and maintain a natural gas pipeline beneath and across the public waters described in its petition and depicted in its filings; and it is

FURTHER ORDERED, that the construction of the line shall be implemented as depicted in the petition and related filings; and it is

FURTHER ORDERED, that this approval is limited to the natural gas pipeline under consideration in this proceeding, and is conditioned on the requirement that Liberty constructs, installs, operates, maintains, and, if applicable, alters, the pipeline in compliance with the provisions of N.H. Code Admin. Rules Puc 500 and 49 CFR Part 192, as may be applicable, and as amended from time to time, and all other applicable safety standards in existence at that time; and it is

FURTHER ORDERED, that Liberty shall use above-ground pipeline markers for identification of the pipeline with appropriate warning and company contact information on the

land along the entire 5.5 mile route up to and including the shorelines of each of the Soucook River crossings; and it is

FURTHER ORDERED, that Liberty shall submit any future proposed alteration(s) to the crossings licensed hereby at least 60 days prior to any such alteration(s); and it is

FURTHER ORDERED, that Liberty shall obtain any and all permits, approvals, licenses, consents, authorizations, or agreements required by the New Hampshire Department of Environmental Services and/or the New Hampshire Department of Transportation, any other federal, state, or local authorities, and any of the affected municipalities for the construction, installation, operation, and maintenance of the crossings; and it is

FURTHER ORDERED, that Liberty shall provide a copy of this Order *Nisi* to the (i) Town Clerk of Loudon, New Hampshire; (ii) the New Hampshire Attorney General, and the owners of the land bordering on said public waters at the location of the crossings, pursuant to RSA 371:19; (iii) the New Hampshire Department of Environmental Services; and (iv) the New Hampshire Department of Transportation, by first class mail, no later than August 5, 2016, such mailing to be documented by affidavit filed with this office on or before August 22, 2016; and it is

FURTHER ORDERED, that Liberty shall cause a summary of this Order *Nisi*, issued concurrently with this Order, to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to occur no later than August 5, 2016, such publication to be documented by affidavit filed with this office on or before August 22, 2016; and it is


FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states

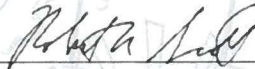
the reason and basis for a hearing no later than August 12, 2016, for the Commission's consideration; and it is

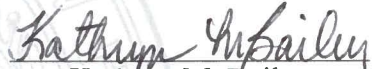
FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than August 19, 2016; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective on August 25, 2016, unless Liberty fails to satisfy the notice and publication obligations set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of July, 2016.



Martin P. Honigberg
Chairman

Robert R. Scott
Commissioner

Kathryn M. Bailey
Commissioner

Attested by:



Debra A. Howland
Executive Director