

State of New Hampshire  
Public Utilities Commission

Docket No. DG 16-852

Liberty Utilities (EnergyNorth Natural gas) Corp. d/b/a Liberty Utilities

**Petition for Expansion of Franchise to the Town of Hanover and City of Lebanon**

**Motion for Protective Order Related to Discovery Responses**

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities, through counsel, respectfully moves the Commission pursuant to Puc 203.08 for a protective order precluding the disclosure of certain data responses and confidential attachments provided to Staff and the OCA during discovery in this matter.

In support of this motion, Liberty represents as follows:

1. Liberty notified the parties pursuant to Puc 203.08 to consider several data responses and attachments to be confidential without then filing a motion. The rule allows such an assertion of confidentiality:

In lieu of immediately filing a motion for confidential treatment, a party providing a document to the commission staff in discovery that the party wishes to remain confidential shall accompany the submission with a written statement that:

(1) The party submitting such documents has a good faith basis for seeking confidential treatment of the documents pursuant to this rule; and

(2) Such party intends to submit a motion for confidential treatment regarding such documents at or before the commencement of the hearing in such proceedings.

Puc 203.08(d).

2. The rule requires the party asserting confidentiality to file a pre-hearing motion to ensure the documents remain confidential:

Documents submitted to the commission or staff accompanied by a written statement pursuant to (d) shall be treated as confidential, provided that the party submitting the documents thereafter files a motion for confidential treatment at or prior to the commencement of the hearing in the proceeding.

Puc 203.08(e).

3. The rule requires such a motion for confidential treatment to contain “a detailed description of the types of information for which confidentiality is sought,” reference to the legal support for confidentiality, a “statement of the harm that would result from disclosure,” and “any other facts relevant to the request for confidential treatment.” Puc 203.08(b).

4. Liberty files this motion for confidential treatment of the following data responses and attachments. The requirements of Puc 203.08(b) described above are provided for in each response. Note that some of these data responses provided or expanded on confidential information contained in the initial filing that was the subject of the Company’s Motion for Protective Order and Confidential Treatment. To the extent the data responses addressed in this motion fall within the scope of the initial motion, the Company will refer to and incorporate the earlier motion.

a. Confidential Attachment Staff 1-6, provides “the basis for the annual use estimates and the expected conversion year” for each of the potential anchor customers. *See* the Company’s Motion for Protective Order, at pages 6-7.

b. Response to OCA 1-4 provides the “current status of the possibility of Dartmouth College and Dartmouth Hitchcock Medical Center being Liberty Utilities’ customer if the requested franchise is approved.” This response contains proprietary and commercially sensitive information of Dartmouth and of DHMC regarding their use or potential use of

natural gas and the Company's understanding of the status of DHMC's contracts with its suppliers. Such information is protected from disclosure by the "confidential, commercial, or financial information" exemption of RSA 91-A:5, IV. Disclosure may cause competitive and other harm to these potential customers.

c. Confidential Attachment OCA 1-14 provides the projected number of residential customers and their load for each phase of construction. *See* the Company's Motion for Protective Order, at page 6.

d. OCA 1-19 requested pricing changes that would result from changed economies of scale assuming the Company did not obtain certain anchor customers. Portions of both the question and the response contained projected loads of particular anchor customers, and contained actual third-party prices based on confidential RFP responses for Liberty's Keene division. These figures constitute commercial, financial, and proprietary information of third parties and thus fall under the "confidential, commercial, or financial information" that is exempt under RSA 91-A:5, IV.

e. Confidential Attachment OCA 1-43.xlsx provided the data supporting confidential charts at Bates 97 and 98 of Liberty's filing, which are "Annual distribution revenues associated with each year's buildout." *See* the Company's Motion for Protective Order, at page 7.

f. OCA 1-46 asked the Company to conduct DCF analyses assuming fewer anchor customers that projected in the original filing. Portions of the response to OCA 1-46 and the requested analyses, contained in Confidential Attachment OCA 1-46.xlsx, are based on information that is subject to the Company's initial motion for confidential treatment. Thus, *see* the Company's Motion for Protective Order, at page 9.

g. Confidential Attachment OCA 1-49.xlsx is the requested live Excel version of Appendix II-26 to the Company's initial filing, which contain various DCF analyses. This document is subject to the Company's Motion for Protective Order, at page 9.

h. Confidential Attachment OCA 2-2 is the option agreement to buy a second parcel of land in Lebanon (not the so-called landfill site discussed in this petition), which site Liberty does not currently intend to use. The parties to Confidential Attachment OCA 2-2 explicitly agreed to keep the document confidential -- it contains "confidential, commercial, and financial information" that is exempt from disclosure pursuant to RSA 91-A:5, IV.

i. Portions of the response to OCA 2-7, which answers how a third party supplier calculates CNG/LNG prices, contains quotes from an attachment to the Company's filing that is a third party supplier's confidential response to an RFP for Liberty's proposed facility in Keene. This document is addressed in the Company's Motion for Protective Order, at pages 8-9.

j. The response to OCA 2-8 includes a reference to two confidential figures from Bates 67 of the initial filing, the total number of prospects and the total number of R-3

customers. The confidentiality of this information is addressed in the Company's Motion for Protective Order, at page 6.

k. Confidential Attachment OCA 2-9.xlsx contains the projected ADTH and associated revenues for each class and customer for each phase of the project, as depicted at Confidential Bates 96-98 of the initial filing. The confidentiality of this information is addressed in the Company's Motion for Protective Order at 7.

l. OCA Tech 1-1 references Confidential Appendix II-22 to the initial filing, then asks a question that contains confidential information (and is thus redacted in the public version) related to the pricing from the third party vendor who responded to an RFP to serve Keene. *See* the Company's Motion for Protective Order at 8.

m. OCA Tech 1-3 asked for the Company to calculate the commitments necessary to support certain direct cost requirements. Parts of the written response and the calculations contained in Confidential Attachment OCA Tech 1-3.xlsx contain confidential third party information, usage data, and other data that, if disclosed, would allow the calculation of confidential third party data that is exempt from disclosure under RSA 91-A:5, IV.

WHEREFORE, Liberty respectfully requests that the Commission:

- A. Grant confidential treatment to the data responses and attachments listed above; and
- B. Grant such other relief as is just and equitable.

Respectfully submitted,

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a  
Liberty Utilities



Date: September 6, 2017

By:

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Certificate of Service

I hereby certify that on September 6, 2017, a copy of this Motion has been electronically forwarded to the service list in this docket.



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Michael J. Sheehan