

State of New Hampshire
Public Utilities Commission

Docket No. DG 17-152

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

Least Cost Integrated Resource Plan

**Motion for Confidential Treatment
of Certain Information in the Rebuttal Testimony**

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities, through counsel, respectfully moves the Commission pursuant to Puc 203.08 for confidential treatment of three passages that contain confidential RFP and bid information in the *Policy and Gas Supply Rebuttal Testimony* (Bates 033-034, 039, and 058), and a single passage that includes confidential customer information in the *Demand Forecast Rebuttal Testimony* (Bates 136, n. 33).

In support of this motion, Liberty represents as follows:

1. Liberty is filing three pieces of rebuttal testimony this date, two of which contain confidential information.

2. First, the *Policy and Gas Supply Rebuttal Testimony* contains three passages with information related to third party suppliers, requests for proposals (RFPs), and bidding information. *See Policy and Gas Supply Rebuttal Testimony* at Bates 033-034, 039, and 058.

The Commission has consistently held such information to be confidential.

3. In *EnergyNorth Natural Gas, Inc.*, Order No. 24,825 (Feb. 29, 2008), the Company sought confidential treatment of, among other information, “a summary of bid responses for the fall 2007 RFPs for supplies,” “bidder and price quotes for the Dracut 20,000

dth RFP dated July 31, 2007,” and “listing by name of gas suppliers solicited as part of the RFP process, price quotes for the 2009/2010 peak season at Dracut, and market intelligence on projected costs of natural gas from third-party consultants.” *Id.* at 16-17. The Commission granted the motion:

[I]n balancing the interests for and against public disclosure of the information for which confidential treatment is sought, we are persuaded on the basis of the record in this docket that the interests of EnergyNorth, and ultimately its ratepayers, as well as the legitimate interests of third parties in non-disclosure outweigh the public’s interest in obtaining access to the information.

Id. at 20.

4. The Commission also codified this well-settled confidentiality of similar information related to fuel RFPs and bid responses in Puc 201.06(a)(11),¹ which presumes such information to be confidential when submitted as part of a cost of gas filing.

5. Liberty seeks confidential treatment of the same type of information here because it constitutes confidential information that is exempt from public disclosure under RSA 91-A:5, IV. The information is proprietary to third-party vendors; Liberty has an obligation to maintain the information in confidence; Liberty does not generally make the information available to third

¹“(a) The following shall be the routine filings to which the procedure established by Puc 201.06 and Puc 201.07 applies:

* * *

(11) In cost of gas proceedings:

- a. Supplier commodity pricing information related to the unit volumetric and demand cost;
- b. Pricing and delivery special terms of supply agreements;
- c. Pricing and special terms for storage lease agreements;
- d. Natural gas or propane costs and availability relating to hedging;
- e. Special terms for hedged natural gas or propane contracts;
- f. Supply commodity cost information specific to individual suppliers in supply and demand forecasts; and
- g. Responses to data requests related to a. through f. above;”

parties; and release of the information is likely to result in a competitive disadvantage for the Company in the form of less advantageous or more expensive gas supply contracts.

6. Second, the *Demand Forecast Rebuttal Testimony* contains a single passage with confidential customer information, consisting of the identity of two customers and specifics of their natural gas service. See *Demand Forecast Testimony* at Bates 136, n. 33.

7. This customer information is protected from disclosure by both RSA 91-A:5, IV, and RSA 363:38. RSA 91-A:5, IV protects “confidential ... information” from disclosure.

8. RSA 363:37 and 38 more specifically define customer information to be confidential and preclude its disclosure. RSA 363:38, I(a) states that “no service provider [defined in RSA 363:37, II to include public utilities] shall share, disclose, or otherwise make accessible to any third party a customer's individual customer data.” “Individual customer data” is defined “information that is collected as part of providing electric, natural gas, water, or related services to a customer that can identify, singly or in combination, that specific customer, including the name, address, account number, quantity, characteristics, or time of consumption by the customer.” RSA 363:37, I.

9. The information marked as confidential in the *Demand Forecast Rebuttal Testimony* falls under these definitions of confidential information that cannot be disclosed.

10. Applying the three-step analysis of *Lambert v. Belknap County Convention*, 157 N.H. 375 (2008) (whether there is a privacy interest at stake that would be invaded by the disclosure, whether there is a public interest in disclosure, and balancing the importance of public disclosure against the harm from disclosure), the information at issue in this motion should be kept confidential.

11. Finally, note that Order No. 26,159 (July 7, 2018) granted confidential treatment of supplier terms and pricing information as contained in the various SENDOUT® reports attached to the initial filing in this docket, and Order No. 26,166 (Aug. 1, 2018), issued in the related Granite Bridge case, also granted confidential treatment to pricing and delivery terms of supply and capacity contracts.

WHEREFORE, EnergyNorth respectfully requests that the Commission:

- A. Grant this Motion for Confidential Treatment; and
- B. Grant 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: October 25, 2019

By: _____
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Certificate of Service

I hereby certify that on October 25, 2019, a copy of this motion has been forwarded to the service list.



Michael J. Sheehan