

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

Docket No. DG 17-198

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

**Petition to Approve Firm Supply and Transportation Agreements
and the Granite Bridge Project**

Liberty's Update and Response to Repsol's and ENGIE's Filings Regarding Confidentiality

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities (the "Company" or "Liberty"), through counsel, respectfully submits this update of its confidentiality request and responds to the recent filings of Repsol Energy North America Corporation ("Repsol") and ENGIE Gas and LNG, LLC ("ENGIE").

1. The Company filed a motion for protective treatment of certain information in the direct testimony and attachments included in its initial filing. The motion sought protection of essentially the same types of information granted confidential status in Order 25,861 (Jan. 22, 2016) and in the related Docket No. DG 14-380. The Office of the Consumer Advocate ("OCA") filed a written objection, the matter was discussed at the March 9 prehearing conference, and two potential intervenors, Repsol and ENGIE, subsequently filed comments in support of the Company's motion as to the categories of confidential information that pertain to them.
2. In response to the discussion at the prehearing conference, the Company is reviewing its filing and will shortly make a replacement filing that will have substantially less information redacted. Generally, the Company plans to un-redact Liberty-generated information that supports the cost estimate for the Granite Bridge Project, but will leave

confidential the commercially sensitive information of ENGIE, Repsol, and other third parties. Liberty respectfully asks the Commission to refrain from ruling on the motion for confidential treatment until the Company makes this replacement filing.

3. Liberty reaffirms its request to maintain the confidentiality of the pricing and negotiated contract terms, the importance of which is highlighted by the filings of ENGIE and Repsol.
4. Liberty also asks that the Commission rule that, in addition to precluding public disclosure, that any competitive entities granted intervention shall also not have access to the redacted commercially sensitive information particularly as it relates to the confidential portions of the Company's SENDOUT® model runs contained in its filing or any future SENDOUT® model runs submitted in response to data requests. Other parties may gain access to the confidential information after signing a non-disclosure agreement, as is the normal practice.
5. Finally, because of the amount of commercially sensitive information already filed in this docket and to be produced in response to data requests, Liberty repeats its objection to Repsol's intervention request. A fair reading of the petition is that Repsol's sole interest in this docket is to advance its own competitive advantage, not to assist the Commission or anyone else in understanding the issues involved.¹ Allowing a competitive supplier to, in effect, participate in the resource analysis and decision making process of any utility will provide that supplier with a competitive advantage relative to all other competitive

¹ See Repsol's petition at 3 (RENA respectfully suggests that a winter peaking service more tailored to Liberty's near- and mid-term needs utilizing the existing Canaport LNG facility along with the proposed Granite Bridge Pipeline would better serve Liberty's customers," a service that only Repsol can provide); and at 4 ("However, it is unclear from Liberty's petition the basis of that evaluation [rejecting Repsol's bid] and the assumptions utilized").

suppliers and will have a chilling effect on the ability for the Company to conduct fair and robust solicitation processes in the future because potential suppliers may fear that a competitor will gain access to their commercially sensitive pricing information. Interestingly, Repsol acknowledged the potential for a chilling effect on the market in their pleading:

To the extent that companies such as RENA are at risk of the disclosure of their confidential information if they negotiate with New Hampshire utilities such as Liberty, this may act as a disincentive for RENA and other companies who are concerned about their confidential information to participate in future negotiations with those utilities. As a result, Liberty and other New Hampshire utilities may end up with less supply options and higher overall costs resulting from less competition.

Repsol motion at 5. A competitive interest is not sufficient to establish an interest under the mandatory intervention standard of RSA 541-A:32, I, and Repsol's expertise is not sufficient in this docket to satisfy the discretion standard of subsection II. Staff, the OCA, and other intervenors along with their respective expert consultants, are all sophisticated parties who can provide the necessary expertise for the Commission to decide the issues presented.

6. Should the Commission grant Repsol intervenor status and accept the need to keep certain information confidential and keep other information confidential from certain parties, the Company will work with the parties to develop the appropriate levels of confidentiality.

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

By its Attorney,



Date: March 16, 2018

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Certificate of Service

I hereby certify that on March 16, 2018, a copy of this motion has been electronically forwarded to the service list.



By: _____
Michael J. Sheehan