

**STATE OF NEW HAMPSHIRE**  
**BEFORE THE**  
**PUBLIC UTILITIES COMMISSION**

**DG 18-094**

**NORTHERN UTILITIES, INC.**

**PETITION FOR AUTHORITY TO OPERATE  
IN THE TOWN OF EPPING**

**OBJECTION TO LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS)  
CORP.'S MOTION FOR CLARIFICATION OR REHEARING**

On February 8, 2019, the New Hampshire Public Utilities Commission (the “Commission”) issued Order No. 26,220 in the above-captioned docket granting Northern Utilities, Inc. (“Northern” or the “Company”) authority to provide natural gas service in the Town of Epping. Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities (“Liberty”) filed a “Motion for Clarification and, Alternatively, Rehearing of Order No. 26,220” pursuant to RSA 541:3 on March 7, 2019.

The Commission’s Order No. 26,220 unambiguously grants Northern authority to provide natural gas service in the Town of Epping without limitation. Furthermore, Liberty has not identified any specific matters that were overlooked or mistakenly conceived by the Commission in its Order, nor has it identified any new evidence that could not have been presented in the underlying proceeding. Thus, for the reasons stated herein, Unitil objects to Liberty’s Motion for Clarification or Rehearing.

1. Northern filed its initial petition seeking franchise authority to provide natural gas service as a public utility within the Town of Epping on June 4, 2018. The Company supported

its Petition with prefiled testimony and exhibits describing Northern’s current plan to expand its natural gas distribution system to serve potential customers in Epping, including a commercial development in the area of Routes 101 and 125. See DG 18-094, Petition of Northern Utilities, Inc. at 1. However, as Liberty acknowledges in its Motion for Rehearing or Clarification, nothing in Northern’s petition limits its request for franchise authority to a specifically delineated region of the Town, or specific streets within the Town. Rather, the Petition unambiguously requests franchise authority without limitation “in the Town of Epping.” Id. at 1, 3.

2. Though Northern’s Petition is clear on its face, the Commission heard testimony at the evidentiary hearing in this matter affirming the Company’s intent to continue to evaluate opportunities for expansion in Epping beyond the initial construction described in the petition:

Q. Does the Company have plans, moving forward in the future, to expand access in the Town of Epping to more than just the few residential ratepayers?

A. We have a line extension tariff as part of our tariff. We have what we consider an aggressive growth plan for the Company. And we will pursue and take advantage of any growth opportunities that are economic for the Company, and our customers.

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We’ve been focused on the project before us initially, as an initial matter. . . . But . . . as part of a discussion we had with the Board of Selectmen in the Town, when they asked this very question about expansion into other areas in the Town, we communicated the same thing. That we have a tariff that allows for that. That we are going to . . . look for opportunities to expand further within the Town. And if there’s a desire and a demand for our services, we’re certainly eager to take a look at those opportunities and take advantage of the ones that make sense.

DG 18-094, Transcript at 45:7 – 46:10 (Jan. 8, 2019).

3. Consistent with the Company’s petition, Order No. 26,220 unambiguously grants Northern authority to provide natural gas service in the Town of Epping, without limitation. DG 18-094, Order Granting Franchise Authority at 1, 11 (Feb. 8, 2019).

Liberty's suggestion that the Commission may have intended to limit the franchise authority granted to Northern in Epping because it approved the Company's petition "as filed" is unavailing and attempts to introduce ambiguity where none exists. Northern's filing plainly requests franchise authority in Epping without limitation, and Order No. 26,220 plainly grants such authority.

4. When granting a public utility authority to conduct business in a new Town, the Commission may "prescribe such terms and conditions for the exercise of the privilege granted under such permission as it shall consider for the public interest." RSA 374:26. The Commission did, in fact, expressly exercise this authority by prescribing certain reporting conditions in connection with Northern's Epping franchise. DG 18-094, Order Granting Franchise Authority at 9-10. Had the Commission intended to limit the geographic scope of the franchise authority granted in Order No. 26,220 by region or street, it could have and would have explicitly done so.

5. Liberty also cites to language in the Order of Notice issued in a different docket, DG 18-194, as potential evidence of ambiguity in Order No. 26,220. As an initial matter, there is nothing in the language cited by Liberty from the DG 18-194 Order of Notice that is inconsistent with the grant of an unlimited franchise to Northern in Order No. 26,220, as that is what the Company requested in its Petition. Furthermore, the scope of the Commission's inquiry following a motion made pursuant to RSA 541:3 is limited to the underlying Order and proceedings. RSA 541:3 (stating that the moving party "may apply for a rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order." (Emphasis added)). Thus, the Commission should not consider the Order of Notice in DG 18-194 as some potential expression of the Commission's intent

in DG 18-094.

6. The intent of the Commission as expressed in Order No. 26,220 is clear and supported by the record in this docket. The Commission unambiguously granted Northern franchise authority to provide natural gas service throughout the Town of Epping, and not limited to “the Route 125 corridor,” as suggested by Liberty.

7. Liberty additionally requests that the Commission clarify “that the Commission retains the authority to award Liberty the right to serve the rest of Epping.” Liberty Motion at 3. The question of Liberty’s “right” to serve any part of Epping was not before the Commission in DG 18-094, and it would be inappropriate for the Commission to make such a determination in this case. As the Commission is well aware, Liberty has filed a separate application for franchise authority in Epping, and the Commission will address any rights that Liberty may or may not have relative to Epping in the Docket.

8. Finally, Liberty asks that the Commission reconsider Order No. 26,220 if “the Commission intended to grant Northern the exclusive right to serve the entirety of Epping” and if “the Commission concluded that it does not have the authority to award a portion of Epping to Liberty.” Liberty Motion at 3. Liberty asserts that the Commission will have deprived Liberty of due process rights in violation of RSA 541-A:31 *et seq.*

9. Northern first notes that Liberty was granted intervention in the underlying matter and provided with an opportunity to participate in the proceedings. Liberty has not, in its motion, identified any specific matters that were “overlooked or mistakenly conceived” by the Commission, nor has Liberty identified any new evidence that could not have been presented in the underlying proceeding. Rather, Liberty essentially repeats the same argument that it made in its petition to intervene and at the hearing in this matter. “A

successful Motion for Rehearing does not merely reassert prior arguments and request a different outcome.” Public Service of New Hampshire, DE 18-002 Order on Motion for Clarification and, in the Alternative, Rehearing at 11 (March 6, 2019).

10. Furthermore, the Commission has not deprived Liberty of any due process rights. As the Commission makes clear in Order No. 26,220, it intends to review Liberty’s petition to serve Epping on its own merits in a separate proceeding. DG 18-094, Order at 10. Liberty will have a full and fair opportunity to present evidence and argument in support of its petition in Docket DG 18-194. To the extent that the Commission denies Liberty’s petition for any reason, then Liberty will have an opportunity to contest that finding and appeal it if Liberty so chooses.

For the reasons stated above, Unitil respectfully requests that the Commission:

- A. Deny Liberty’s Motion for Clarification or Rehearing; and
- B. Grant any other relief as the Commission deems necessary.

Dated: March 12, 2019




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**Certificate of Service**

I hereby certify that on this 12<sup>th</sup> day of March, 2019, a copy of this Objection has been sent by electronic mail to the service list in the above-captioned matter.

Dated: March 12, 2019

A handwritten signature in black ink, appearing to read 'Patrick H. Taylor', written over a horizontal line.

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