

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 19-074

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

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

Order *Nisi* Granting License

ORDER NO. 26,284

August 8, 2019

This order grants Liberty Utilities a license to construct and maintain a natural gas pipeline under the public waters of the Soucook River. This order is being issued on a *nisi* basis to ensure that interested parties receive notice and have the opportunity to comment or request a hearing before the order becomes effective.

I. PROCEDURAL HISTORY

On April 4, 2019, Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities (Liberty) filed a Petition pursuant to RSA 371:17 requesting a license to construct and maintain a natural gas pipeline under the Soucook River. On July 19, 2019, Liberty filed an amended petition. In support of its request, Liberty submitted a Gas Main Extension Overview Plan, Gas Main Extension Layout Plan, Gas Main Extension Profile Plan, and Construction Details. On July 1, 2019, Commission Staff (Staff) filed a memorandum recommending that the Commission grant the license subject to certain 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 at

<http://puc.nh.gov/Regulatory/Docketbk/2019/Docketbk/2019/19-074.html>.

II. SUMMARY OF PETITION

Liberty currently operates a natural gas distribution main in the vicinity of Sheep Davis Road (NH Route 106) and North Pembroke Road in Concord. The proposed crossing will connect Liberty's distribution system at this location to two new customers located across the Soucook River in Pembroke.

A. Crossing Location and Construction

The proposed crossing will be located on North Pembroke Road approximately 1,900 feet east of Sheep Davis Road (NH Route 106). The crossing will be constructed using horizontal directional drilling (HDD). The area drilled will be approximately 600 feet in length. The pipeline will be constructed using an 8-inch diameter plastic carrier pipe inserted into a 12-inch diameter plastic casing pipe. Approximately 75 feet of the new gas distribution main will be installed below the river. The casing pipe will be at least 15 feet below the river bed.

B. Regulatory Requirements

According to Staff, although Liberty's Petition does not explicitly state that the requirements of N.H. Code Admin. Rules Puc 500 will be met, the Petition provides engineering details regarding material and selection of applied coatings that are consistent with the requirements of 49 CFR Part 192. After reviewing Liberty's Petition and attachments, Staff determined that, with certain conditions, the proposed crossing would be in compliance with the applicable requirements of N.H. Code Admin. Rules Puc 500 and 49 CFR Part 192.

Liberty will file an application for a Shoreland Permit with the New Hampshire Department of Environmental Services (NHDES) before construction of the pipeline. Liberty represented that a wetland permit is not required because the construction of the pipeline will not disturb wetlands.

C. Property Rights

Liberty provided documentation to show that the gas distribution pipeline will be located under the bed of the Soucook River as well as under the eastern and western shores of the Soucook River. Liberty represented that, because all work will be confined to the public right-of-way, there is no need to acquire any other property rights.

D. Service to the Public and the Effect on Public Rights

According to Liberty, the proposed construction and pipeline crossing will not substantially affect the rights of the public in the Soucook River because the crossing will be accomplished using HDD and the pipe will be at least 15 feet beneath the river bed. In addition, the entry and exit points of the directional drill will be no less than 200 feet from the east side of the river and no less than 300 feet from the west side of the river. The HDD process should have no impact on the river, and the new gas main will not impede use of the river or traffic. By installing the carrier pipe inside a casing, Liberty will be able to conduct maintenance on the distribution main by removing it from the casing without disrupting the river.

Liberty stated that construction of the new gas distribution main is necessary for it to provide natural gas service to Pleasant View Gardens.

III. SUMMARY OF STAFF REVIEW

Commission Staff reviewed Liberty's Petition and supporting documentation, applicable statutes, rules, and the requirements of 49 CFR Part 192, ownership of the land, public need, safety, and impact. Staff determined that the proposed construction, with certain conditions, would meet the requirements of 49 CFR Part 192, applicable state statutes, and Commission rules. Staff recommended approval of the Petition with those conditions.

Staff recommended that Liberty be directed to construct, operate, and maintain the piping consistent with both Puc 506.02 and 49 CFR Part 192 requirements, and the North American Society for Trenchless Technology Horizontal Directional Drilling Good Practices Guidelines (4th edition). Staff recommended that Liberty be directed to operate and maintain the crossing in conformance with the latest 49 CFR Part 192 amendments. Staff believes that future alterations to the crossing that may impact the public should conform with the most current 49 CFR Part 192 amendments in effect at the time of submittal of the alteration. Staff recommended aboveground pipeline markers be required to identify the pipeline location, with appropriate warning and Company contact information on each side of the Soucook River crossing. Staff also recommended that the gas main be locatable for future excavations using a tracer wire or other suitable equivalent means.

With regard to the HDD process, Staff recommended continuous monitoring for possible hydro fracture during the HDD operation. Staff also recommended that Liberty be required to immediately implement containment measures if a hydro fracture occurs and, in that event, to notify the Commission Safety Division and NHDES. Staff also recommended that Liberty have clean up capability onsite in the event of a hydro fracture, prior to beginning the HDD operation. Last, Staff recommended that the approval be limited to a gas pipeline with the specifications proposed by Liberty in this docket.

According to Staff, the Soucook River in the vicinity of the proposed water crossing has been designated as public water, which must be managed in accordance with RSA Chapter 483, relative to the New Hampshire Rivers Management and Protection Program. Staff concluded that, if the regulatory requirements of 49 CFR Part 192 and Puc 500 rules are met, the proposed

natural gas pipeline will meet all current safety standards. *See* Staff Memorandum (July 1, 2019).

IV. COMMISSION ANALYSIS

“Whenever it is necessary, in order to meet the reasonable requirements of service to the public, that any public utility should 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, it shall Petition the commission for a license to construct and maintain the same.” RSA 371:17. The Commission is authorized to grant such a license if it “may be exercised without substantially affecting the public rights in said waters or lands.” RSA 371:20. NHDES has classified the Soucook River as a “public water” under RSA 271:20.¹

We find that the proposed crossing is necessary to meet the reasonable requirements of reliable service to the public, as required by RSA 371:17. We further find that the requested license may be exercised without substantially affecting the public rights in the Soucook River, as required for approval under RSA 371:20. Therefore, we approve the Petition subject to the conditions contained in the ordering clauses below. We issue our decision on a *nisi* basis to provide any interested person the opportunity to submit comments or to request a hearing.

This approval is only for the pipeline with the specifications proposed in this docket. Should Liberty seek further modification, it must make the appropriate filing. Liberty is responsible for obtaining any and all federal, state, or local permits required by authorities having jurisdiction for the construction and installation of the proposed crossing.

¹ *See* http://des.nh.gov/organization/divisions/water/dam/public_waters/index.htm; <https://www.des.nh.gov/organization/commissioner/pip/publications/wd/documents/olpw.pdf>.

We also require notice to be provided to the Town of Pembroke, the City of Concord, NHDES, the Office of the Attorney General, and owners of land bordering the crossing pursuant to RSA 371:19.

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 single natural gas pipeline under and across the Soucook River as described in its Petition and depicted in its filings; and it is

FURTHER ORDERED, that the construction of the pipeline shall be implemented as depicted in the Petition documents; and it is

FURTHER ORDERED, that this approval is limited to the construction of a single natural gas pipeline under consideration in this docket, and is conditioned on the requirement that Liberty construct, operate, maintain, and, if necessary, alter the pipeline consistent with the provisions of N.H. Code Admin. Rules Puc 500, *et seq.*, 49 CFR Part 192, and the North American Society for Trenchless Technology Horizontal Directional Drilling Good Practices Guidelines (4th edition), as may apply, 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 submit any future proposed alteration(s) to the crossing license granted herein at least 60 days prior to undertaking any such alteration(s); and it is

FURTHER ORDERED, that Liberty have clean up capability on site prior to commencing horizontal directional drilling, actively monitor for possible hydro fracture during the operation, immediately implement containment measures during any hydro fracture, and

promptly notify the Commission Safety Division and New Hampshire Department of Environmental Services of any hydro fracture; and it is

FURTHER ORDERED, that Liberty use above-ground markers to identify the pipeline, with appropriate warnings and Company contact information, on each bank of the crossing; and it is

FURTHER ORDERED, that Liberty install a tracer wire or other suitable equivalent means to easily locate the pipeline; and it is

FURTHER ORDERED, that Liberty shall provide a copy of this order to (i) the Town Clerks of Pembroke and Concord, New Hampshire; (ii) the New Hampshire Attorney General and all owners of the land bordering on said public waters at the location of the crossing, as required by RSA 371:19; and (iii) the New Hampshire Department of Environmental Services, by first class mail, no later than August 19, 2019, to be documented by affidavit filed with the Commission on or before September 5, 2019; and it is

FURTHER ORDERED, that Liberty shall cause a summary of this order, 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 19, 2019, and to be documented by affidavit filed with the Commission on or before September 5, 2019; and it is

FURTHER ORDERED, that persons interested in responding to this order be notified that they may submit their comments or file a written request for a hearing that states the reason and basis for a hearing no later than August 26, 2019, for the Commission's consideration; and it is

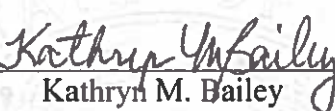
FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than September 3, 2019; and it is

FURTHER ORDERED, that this order shall be effective September 9, 2019, 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 eighth day of August, 2019.



Martin P. Honigberg
Chairman



Kathryn M. Bailey
Commissioner



Michael S. Giaimo
Commissioner

Attested by:



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Executive Director



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