

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

Docket No. DG 20-152

LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP.
d/b/a LIBERTY UTILITIES – KEENE DIVISION

Winter 2020-2021 Cost of Gas

Motion for Protective Order and Confidential Treatment of Exhibit 23

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 the entirety of Exhibit 23, the record request being filed on this date, because it contains confidential customer information, third party pricing information, bid responses, and other confidential information.

Given the short deadline for filing Exhibit 23, the size of Exhibit 23 (180 pages), and the amount of confidential information scattered throughout the document, it was not possible for the Company to prepare confidential and redacted versions marking only the confidential information, thus the Company initially seeks confidential treatment of the entire document.

The Company will publicly file the Table of Contents for Exhibit 23, and will file replacement public and confidential versions of Exhibit 23 that contain the appropriate markings by December 4, 2020.

In support of this motion, EnergyNorth represents as follows:

1. Exhibit 23 includes the following categories of confidential information: (a) customer information; (b) confidential responses to the Company's request for CNG pricing; and (c) confidential negotiations between Liberty and third party suppliers regarding the pricing of CNG and the terms of providing CNG service.

2. The legal authority protecting the confidentiality of customer information is RSA 363:37 and 363:38. The authority for confidential treatment of responses to the Company's request for CNG pricing is RSA 91-A:5, IV, and Puc 201.06(a)(11) (which presumes confidential treatment of such information in cost of gas proceedings). And third party responses to RFPs, CNG pricing, and delivery terms are similarly presumed to be confidential in cost of gas proceedings pursuant to Puc 201.06(a)(11), and are also protected from disclosure as "confidential, commercial, or financial" information under RSA 91-A:5, IV.¹ Finally, RSA 91-A:5, IV, is the authority to protect negotiations with third parties regarding such commodity pricing and contract terms.
3. Applying the three factor *Belknap*² test, the determination of whether to grant a motion for confidential treatment involves a balancing of the public's interest in full disclosure with the countervailing commercial or private interests for non-disclosure. The balance tips in favor of confidential treatment of the above information in Exhibit 23.
4. The Company thus asks the Commission to grant confidential treatment for the confidential information in Exhibit 23.
5. Given the short time span between the Commission's record request for this information (Friday, November 20) and its due date (Wednesday, November 25), and the volume of responsive documents (over 180 pages), the Company did not have time to mark the confidential information in the normal course.
6. To preserve confidentiality, the Company requests a finding that the entirety of Exhibit

¹ The Company is filing this motion, which is not required as to information that falls within the scope of Puc 201.06(a)(11), to ensure confidentiality of confidential information in Exhibit 23 that falls outside its scope, such as customer information.

² *Lambert v. Belknap County Convention*, 157 N.H. 375, 382-83 (2008).

23 is confidential, conditioned on the Company filing versions of the exhibit that duly mark (for the confidential version) and redact (for the public version) the confidential information no later than December 4, 2020. The Company will work with Staff, the OCA, and the clerk's office to determine the best way to designate those filings.

WHEREFORE, Liberty Utilities (EnergyNorth Natural Gas) Corp. respectfully requests that the Commission:

- A. Grant this Motion for Protective Order and 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: November 25, 2020

By: _____
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Certificate of Service

I certify that on November 25, 2020, a copy of this Motion has been electronically forwarded to the service list.



Michael J. Sheehan