

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

RE: LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP. D/B/A LIBERTY
UTILITIES

DOCKET NO. DG 14-380

OBJECTION TO RICHARD M. HUSBAND'S MOTION FOR REHEARING

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities ("EnergyNorth" or the "Company"), in accordance with Puc 203.07(a) and (f) and RSA 541:3, hereby objects to the motion for rehearing filed by Richard M. Husband ("Mr. Husband"). In support of this objection, the Company states as follows:

1. On November 2, 2015, Mr. Husband filed a Motion for Rehearing in which he requests that the Commission vacate or reverse Order No. 25,822 (the "Order") approving the Settlement Agreement filed in this case and schedule another hearing to "allow consideration of the negatives of the NED pipeline and the submission of public comments and evidence on the matter and the 'public interest' determination, and apply the proper 'public interest' standard." Husband Motion at 22. The Commission should deny the Husband Motion because: (1) Mr. Husband is not directly affected by the Order, and thus has no standing to move for rehearing; (2) Mr. Husband has not identified any new evidence that could not have been presented at the hearing, and; (3) the Order is neither unlawful nor unreasonable, and thus should not be vacated or reversed.

2. On July 16, 2015, Mr. Husband petitioned to intervene in this docket to object to the rescheduling of the hearing because he had obtained a permit to protest in opposition to the

Northeast Energy Direct Pipeline outside the Commission offices for the originally scheduled hearing date. Mr. Husband's concern was that he would be unable to obtain a permit to protest for the newly scheduled hearing date. Husband Petition to Intervene at 3. Mr. Husband subsequently withdrew his petition to intervene as a result of efforts by the Commission to assist him in obtaining a protest permit for the new hearing date. Withdrawal of Petition to Intervene of Richard Husband at 1. Mr. Husband was present at the July 21 hearing, and provided comments. Transcript of July 21 hearing at 17-20.

3. RSA 541:3 provides, in part, that "...any party to the action or proceeding before the commission, or any person directly affected thereby, may apply for a rehearing..." Mr. Husband does not meet either of these criteria, as he was not a party to the action and is not directly affected by the Order. The Husband Motion provides no explanation for how he meets the "directly affected" standard in RSA 541:3. The only information Mr. Husband provides is that he is a resident of Litchfield, New Hampshire. Husband Motion at 1. While the Company serves limited portions of Litchfield, the Company does not serve Mallard Court where Mr. Husband resides. *See* Affidavit of William J. Clark, attached to this Objection. Thus, Mr. Husband cannot be "directly affected" by the Order, because he is not, and cannot be a customer of the Company given that the Company does not provide natural gas service to his street.

4. Further, the Commission has made clear that only the interests of customers of the Company would be considered in this proceeding, as they will be the ones to "bear the costs of the Precedent Agreement." In Order 25,767, in which it granted PLAN's petition to intervene, the Commission held that:

Only EnergyNorth-customer members possess "rights, duties, privileges, immunities or other substantial interests [that] may be affected by the proceeding." RSA 541-A:32, I (b). It will be EnergyNorth customers who will bear the costs of the Precedent Agreement if the Commission approves it. PLAN's landowner members possess no such

direct interest or cost responsibility; their interests, while important, are not pertinent to the Commission's determinations in this proceeding...To ensure an orderly and focused proceeding, we limit PLAN's participation to the interests of its EnergyNorth-customer members in the prudence, justness and reasonableness of the Precedent Agreement and its associated costs, to EnergyNorth and its customers.

Order 25,767 at 4. Because Mr. Husband does not meet the criteria of RSA 541:3, he has no standing to move for rehearing, and on this basis alone his motion should be denied. *See Appeal of Richards*, 134 N.H. 148, 154 (1991) (to be directly affected by a decision of an administrative agency means that the individual has suffered or will suffer an injury in fact as a result of the decision); *see also Appeal of New Hampshire Right to Life*, 166 N.H. 308, 314 (2014) (generalized claims about what is perceived as a public problem does not constitute an "injury in fact").

5. Even if the Commission were to find that Mr. Husband has been directly affected by the Order, Mr. Husband has not demonstrated "good reason for rehearing," as is required by RSA 541:3. He has not identified new evidence that could not have been presented previously in this docket, *O'Loughlin v. N.H. Personnel Comm'n*, 117 N.H. 999, 1004 (1977), and instead restates many of the public comments filed with the Commission. His motion does not demonstrate that the Commission "overlooked or mistakenly conceived" evidence before it. *Dumais v. State*, 118 N.H. 309, 311 (1978). Rather, his complaint is that the Commission "unjustly, unreasonably and unlawfully ignored the public comments." Husband Motion at 10-16. None of this constitutes "good reason" for rehearing.

6. While the Commission is obligated to provide the public with an opportunity at a hearing or prehearing conference to state their position in the matter, *see* Puc 203.18, the Commission, in taking those comments into consideration is not obligated to adopt the views of the commenters. The Commission took public statements at the July 21 hearing in satisfaction of

Puc 203.18. The comments that Mr. Husband now complains the Commission ignored– “loss of injury to drinking water aquifers, wetlands, farmlands, historic areas, conservation and other environmentally sensitive areas; safety concerns, damage to the state’s tourism and related economies, personal hardships, etc.,” Husband Motion at 16 – were not at all ignored by the Commission, but rather were explicitly acknowledged by the Commission to be outside the scope of this proceeding. On March 6, 2015, the Commission ruled that “[t]his proceeding does not concern and will not result in any approval of, or permissions for, siting or construction of TGP’s NED project. Those matters are pending determination by other regulatory agencies, including the Federal Energy and Regulatory Commission (FERC).” Order No. 25,767 at 3. The Commission reaffirmed this position in Order 25,822 when it held that:

Our statutory review of the Precedent Agreement is limited to consideration of EnergyNorth’s prudence in entering into the Precedent Agreement, and the reasonableness of the terms of the agreement. We do not undertake any review of the merits of the siting of the NED Pipeline. The Precedent Agreement is not effective unless the NED Pipeline is approved, constructed, and providing service. At this time, the NED Pipeline is still under review by FERC. The important issues raised in the public comments, including the impact of the NED Pipeline on the communities through which the pipeline will run, are solely within the province of FERC. Consequently, we do not consider those siting issues in our review of the Precedent Agreement.

Order 25,822 at 24. No Motion for Rehearing was filed for either of these orders.

7. There is nothing unlawful or unreasonable about the Commission’s determination that it should not consider siting issues associated with the NED pipeline. In fact, that decision is consistent with well-established law that administrative agencies only have those powers directly conferred to them by statute. *Petition of Chase Home for Children*, 155 N.H. 528 (2007). As the Commission itself acknowledges, it is the FERC, and possibly the New Hampshire Site Evaluation Committee, that would have authority to address any such issues, not the Commission. Order 25,822 at 24. Thus, Mr. Husband’s claim that the Commission’s failure to

consider issues associated with the alleged environmental impact of the proposed NED pipeline as part of its public interest determination does not constitute a valid basis for rehearing.

8. For these reasons, the Company requests that the Commission deny Mr. Husband's motion for rehearing.

WHEREFORE, EnergyNorth respectfully requests that the Commission:

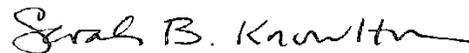
- A. Deny Mr. Husband's Motion for Rehearing, and;
- B. Grant such other relief as is just and equitable.

Respectfully submitted,

LIBERTY UTILITIES (ENERGYNORTH
NATURAL GAS) CORP. D/B/A LIBERTY
UTILITIES

By Its Attorneys,

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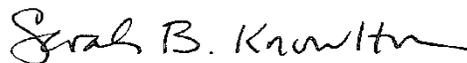


November 5, 2015

By: _____
Sarah B. Knowlton, Esquire

Certificate of Service

I hereby certify that on November 5, 2015, a copy of this Objection to Motion for Rehearing has been forwarded to Mr. Husband and the service list in this docket.



Sarah B. Knowlton

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

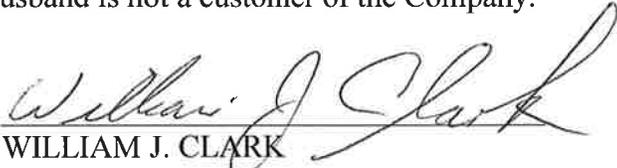
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Affidavit of William J. Clark

I, William J. Clark, being duly sworn, do hereby depose and say:

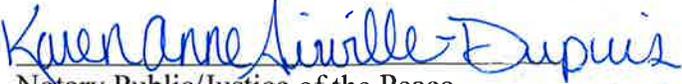
1. I am employed by Liberty Utilities Service Corp. as a Business Development Professional. In that capacity, I am familiar with the franchise areas served by Liberty Utilities (EnergyNorth Natural Gas) Corp. ("EnergyNorth").
2. EnergyNorth does not provide utility service to Mallard Court in Litchfield, New Hampshire.
3. I have reviewed the customer service records of EnergyNorth, and determined that Mr. Husband is not a customer of the Company.

Dated: 11/4/15


WILLIAM J. CLARK

STATE OF NEW HAMPSHIRE
COUNTY OF HILLSBOROUGH

Personally appeared, before me, the above-named William J. Clark, who acknowledged the foregoing statements to be true to his best knowledge and belief.


Notary Public/Justice of the Peace
My Commission Expires:

KAREN ANNE SINVILLE
Justice of the Peace, State of New Hampshire
My Commission Expires July 2, 2019