

STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

October 28, 2015 - 9:01 a.m.
Concord, New Hampshire

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RE: DG 15-362
LIBERTY UTILITIES (ENERGYNORTH NATURAL
GAS) CORP. d/b/a LIBERTY UTILITIES:
Petition for Expansion of Franchise to Towns
of Pelham and Windham and Waiver of the
Tariff Filing Requirements Pursuant to
Puc 1603.02 (a). (Prehearing conference)

PRESENT: Chairman Martin P. Honigberg, Presiding
Commissioner Robert R. Scott
Commissioner Kathryn M. Bailey

Sandy Deno, Clerk

APPEARANCES: Reptg. Liberty Utilities (EnergyNorth Natural
Gas) Corp. d/b/a Liberty Utilities:
Sarah B. Knowlton, Esq. (Rath Young...)

Reptg. Residential Ratepayers:
Pradip Chattopadhyay, Asst. Consumer Advocate
Susan Chamberlin, Esq., Consumer Advocate
Office of Consumer Advocate

Reptg. PUC Staff:
Alexander F. Speidel, Esq.
Stephen P. Frink, Asst. Dir./Gas & Water Div.

Court Reporter: Steven E. Patnaude, LCR No. 52

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P R O C E E D I N G

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2 CHAIRMAN HONIGBERG: We're here this
3 morning in Docket DG 15-362, which is a petition by
4 Liberty Utilities (EnergyNorth Natural Gas) Corp. to get a
5 franchise territory in Pelham and Windham. There are a
6 host of statutes listed in the Order of Notice that are
7 relevant to this proceeding, which we didn't used to get
8 very often, but now we seem to get one a month, franchise
9 petitions.

10 Let's get appearances first.

11 MS. KNOWLTON: Good morning,
12 Commissioners. My name is Sarah Knowlton. I'm here today
13 from Rath, Young & Pignatelli, on behalf of Liberty
14 Utilities (EnergyNorth Natural Gas) Corp. And, with me
15 from the Company are the Company witnesses, Mr. Mullen,
16 Mr. Clark, Mr. MacDonald, and Mr. Licata and Mr. Hall are
17 here as well.

18 MR. CHATTOPADHYAY: I'm Pradip
19 Chattopadhyay.

20 CHAIRMAN HONIGBERG: You can sit.

21 MR. CHATTOPADHYAY: With the New
22 Hampshire Office of Consumer Advocate.

23 MR. SPEIDEL: Good morning, Mr.
24 Chairman. Alexander Speidel, representing the Staff of

1 the Commission. And, I have with me the Assistant
2 Director of the Gas & Water Division, Stephen Frink.

3 CHAIRMAN HONIGBERG: We have an
4 intervention request from the Town of Pelham. Is there
5 anybody here from the Town of Pelham or for the Town of
6 Pelham?

7 *[No verbal response]*

8 CHAIRMAN HONIGBERG: It would seem not.
9 Has anybody heard from Pelham?

10 (Atty. Speidel indicating in the
11 negative.)

12 CHAIRMAN HONIGBERG: Is there going to
13 be any objection to granting their intervention request?

14 MS. KNOWLTON: The Company has none.

15 MR. SPEIDEL: Staff has no objection.

16 And, as a matter of fact, we believe that the Town of
17 Pelham's intervention request would qualify under Subpart
18 I of the intervention standard statute, insofar as Pelham
19 is the municipality in which part of the franchise would
20 sit.

21 CHAIRMAN HONIGBERG: We are prepared to
22 grant the Motion to Intervene from Pelham.

23 Has anybody heard from the Town of
24 Windham?

1 [No verbal response]

2 CHAIRMAN HONIGBERG: All right. There's
3 also a motion by the Company to waive the requirement that
4 a tariff be filed with the Petition. Staff or the OCA
5 have any position on that motion?

6 MR. CHATTOPADHYAY: No, I don't.

7 CHAIRMAN HONIGBERG: Mr. Speidel.

8 MR. SPEIDEL: Staff would like to take
9 that waiver request under advisement, and issue a
10 recommendation regarding that request at a later time.

11 CHAIRMAN HONIGBERG: Okay.
12 Ms. Knowlton.

13 MS. KNOWLTON: Two things. I would note
14 that, in the Town of Pelham's intervention petition, they
15 had some concerns about the waiver request, in that they
16 don't have a copy of the tariff. We actually brought a
17 copy with us today for the Town, if they wanted a copy.
18 It is available on both the Company's website, as well as
19 the Commission's.

20 The second point is with regard to the
21 Motion for Waiver. The only change that would occur in
22 the tariff as a result of the Company's filing, should it
23 be granted, is that the franchise town list, which is on
24 one page of the tariff, would be changed. The Company

1 isn't seeking other changes to the tariff as a part of
2 this proceeding. So, that's why we elected not to file
3 the entire tariff, which is, you know, probably at least a
4 half inch thick.

5 CHAIRMAN HONIGBERG: Oh, I think we
6 understand why you did what you did. Is there any problem
7 if that motion is not granted immediately?

8 MS. KNOWLTON: Sure. I mean, we have no
9 problem making the filing. You know, I think what we
10 would do is file with redline the page that lists the
11 franchise towns and add Pelham and Windham, since that is
12 our proposal. And, we can file that with the Commission.
13 That's no issue.

14 CHAIRMAN HONIGBERG: All right. Then,
15 it sounds like that's moot. We'll just deal with it that
16 way. All right.

17 Any other preliminary matters before we
18 hear the parties initial positions?

19 *[No verbal response]*

20 CHAIRMAN HONIGBERG: Didn't think so.
21 Ms. Knowlton.

22 MS. KNOWLTON: Thank you. The Company
23 is pleased to be here today requesting to receive
24 authority from the Commission to operate within the Towns

1 of Pelham and Windham. Over the course of the past couple
2 years, the Company has had periodic requests, in
3 particular, from Windham, to serve in that area. And, so,
4 there have been ongoing discussions. And, I think, as the
5 Commission may have seen, there was a letter that was
6 filed by the Town of Windham in support of the Company's
7 request.

8 We think that this is a very positive
9 development to expand the availability of natural gas in
10 the southern part of the state. As we have indicated in
11 our filing, you know, these towns, because they're so
12 close to the Massachusetts border, and those towns on the
13 Massachusetts side of the border have natural gas
14 available. You know, there is some economic competition
15 for businesses, and possibly homeowners as well. So, I
16 think the towns, my understanding is, is that there is an
17 economic motivation in part behind this.

18 The Company would propose to, if it
19 receives approval within the next few months, that the
20 Company could construct the system, the Phase 1 part of
21 the system, and that would be in service by the heating
22 season next year, which, again, we think is a very
23 positive development. We think this is a very
24 straightforward petition. I would note that the Company

1 will be filing a petition for a river crossing. It's a
2 very small crossing, but, nonetheless, the statute does
3 require approval to do so, and the Company will follow
4 that process and submit something within the next few
5 months, so that the Commission can consider that as well.

6 But we do believe that this is in the
7 public interest. The Company is certainly a
8 well-established utility in the state, and has the
9 technical, managerial, and financial ability to provide
10 utility service in these two towns, as it does in its
11 other franchised areas.

12 CHAIRMAN HONIGBERG: Thank you.
13 Dr. Chattopadhyay.

14 MR. CHATTOPADHYAY: The New Hampshire
15 Office of Consumer Advocate at this point doesn't have any
16 position. But we are, obviously, going to be working on
17 the procedural schedule, and that would provide us the
18 opportunity to participate in this docket.

19 CHAIRMAN HONIGBERG: Mr. Speidel.

20 MR. SPEIDEL: Thank you, Mr. Chairman.
21 Staff at the present time has not come to a substantive
22 conclusion regarding the advisability of the franchise
23 petition. However, as indicated in the Order of Notice,
24 there's a series of statutory standards that we must

1 analyze regarding the advisability for franchise approval
2 of this particular proposal.

3 Also, there's one small minor technical
4 element that hasn't been examined in the Order of Notice,
5 and that would be the fact that there are a number of
6 official and semi-official materials that indicate that
7 the Town of Pelham is part of the Northern gas franchise
8 territory. And, to our knowledge, that reference is made
9 within Northern's official filings in annual reports.
10 However, there are no customers served by Northern, to
11 Staff's knowledge.

12 And, so, that's an area of factual
13 inquiry that we'll be making regarding whether, number
14 one, Northern maintains some level of franchise
15 exclusivity within the Town of Pelham; whether that
16 so-called "franchise exclusivity" has lapsed; and the
17 exact nature of the franchise that Liberty is seeking,
18 insofar as they may be seeking a border-to-border
19 franchise for both towns, wherein, after approval by the
20 Commission, they would have the inclusive right to offer
21 natural gas service within the entire borders of each
22 town.

23 So, that's something that Staff will be
24 engaging in as a matter of factual and legal inquiry. But

1 we expect that we'll be working with the Company quite
2 closely regarding engineering details and economic
3 details, and other elements of their proposal. Thank you.

4 CHAIRMAN HONIGBERG: Do we have an order
5 of notice problem? Do we need to give notice -- do we
6 need to give specific notice to Northern?

7 MR. SPEIDEL: The interesting fact is
8 that we don't believe so, in that Northern is very well
9 aware of dockets being filed before the Commission in
10 various venues. I think they have staff that are
11 responsible for monitoring that.

12 What we will do is we will reach out to
13 Northern and ask them about whether they're aware of this
14 docket during the pendency of the proceeding. And, we
15 haven't heard anything thus far. We expect that they
16 would be willing, and, again, this is a supposition, that
17 they would be willing to cede the exclusivity of the
18 franchise of Liberty, insofar as they have spent many
19 years holding the franchise in Pelham, and they have not
20 yet connected a single customer to service to our
21 knowledge.

22 CHAIRMAN HONIGBERG: Ms. Knowlton.

23 MS. KNOWLTON: My understanding is that
24 years ago the Commission issued an order approving the

1 sale of the propane system or the propane farm in Pelham
2 that Northern opened and operated. And that, since the
3 time of that sale, Northern has not served any customers
4 in Pelham.

5 So, you know, I don't know whether it's
6 just a matter of administrative oversight that they
7 haven't deleted Pelham from their franchise -- their list
8 of franchise towns in their tariff. But we see no
9 indication whatsoever that Northern intends to serve in
10 Pelham. And, we have not had conversations with Northern,
11 but, you know, again, we've seen no activity. And, again,
12 you know, these towns have been talking to Liberty
13 Utilities about service. You know, we don't, again, have
14 any knowledge that they have been speaking to Northern.

15 But, you know, I think, as indicated in
16 Mr. Clark's testimony, you know, that various town
17 committees and town representatives have been holding
18 meetings with the Company for some period of time. So,
19 you know, it may, from my perspective, be nothing more
20 than, you know, just that Pelham needs to come out of
21 their tariff, since they have not demonstrated any actions
22 relating that they have an intention to actually serve
23 there, you know, in any recent period.

24 CHAIRMAN HONIGBERG: Well, you'll sort

1 that out, I suspect, and get it right. Timing, I heard
2 Ms. Knowlton use a phrase like "a few months". What's the
3 expectation here? I know you have a technical session
4 scheduled after this where you'll talk about that. But
5 what's the expectation for how long this proceeding will
6 take?

7 MS. KNOWLTON: We intend to file the
8 river crossing petition, I'd say, within the next few
9 months. And, my hope would be that we could conclude this
10 proceeding sometime in the early part of 2016, within the
11 first quarter of 2016. That would leave the Company time
12 to have the system constructed for the heating season next
13 year.

14 CHAIRMAN HONIGBERG: I'll note for the
15 record that two-thirds of the Commissioners have the
16 letter from Windham, one-third does not.

17 MS. KNOWLTON: I'd be glad to provide a
18 copy, if that would be helpful?

19 CHAIRMAN HONIGBERG: That's all right.
20 It's up here. I've had a chance to look at it. Is there
21 any -- either Commissioners have any questions?

22 Commissioner Scott.

23 CMSR. SCOTT: Thank you. And, I do have
24 the letter from Windham. So, I'm one of the lucky ones.

1 I just, and we don't have to go into great detail, I was
2 just curious, is the filing going to be in any way
3 predicated upon additional pipeline capacity being brought
4 into Dracut or to feed the Concord Lateral?

5 MS. KNOWLTON: The Phase 1 construction
6 plan, which is what is detailed in Mr. Clark's testimony,
7 is not. If there will be subsequent phases of
8 construction, then that will be tied to the later
9 availability of increased pipeline capacity.

10 CMSR. SCOTT: Okay. Thank you.

11 CHAIRMAN HONIGBERG: Commissioner
12 Bailey, any questions?

13 COMMISSIONER BAILEY: No thank you.

14 CHAIRMAN HONIGBERG: Is there anything
15 else we need to do before we break?

16 CMSR. SCOTT: Well, I have --

17 CHAIRMAN HONIGBERG: Mr. Speidel?

18 MR. SPEIDEL: Just --

19 CMSR. SCOTT: I have another one.

20 CHAIRMAN HONIGBERG: Oh, I'm sorry.

21 Commissioner Scott has another question. I'm sorry.

22 CMSR. SCOTT: I apologize.

23 CHAIRMAN HONIGBERG: He pushed the
24 microphone away, I thought he was done, and he fooled me.

1 CMSR. SCOTT: And, again, this is a
2 general sentiment from me. Is it safe to assume that,
3 assuming this project were to go forward, it wouldn't
4 divert any resources away from your efforts to answer
5 customer requests for expansion within your existing
6 franchise areas?

7 MS. KNOWLTON: No, not at all.

8 CMSR. SCOTT: Thank you.

9 CHAIRMAN HONIGBERG: Mr. Speidel.

10 MR. SPEIDEL: Yes. Just for my own
11 edification, has the Commission granted the Motion for
12 Intervention by the Town of Pelham?

13 CHAIRMAN HONIGBERG: Yes.

14 MR. SPEIDEL: It has indeed, okay. I
15 just wanted to reiterate that.

16 And, there was a question about the
17 timing of the proceeding. We would expect that we would
18 set up the procedural schedule with two rounds of
19 discovery, as with the other franchise approvals. And, at
20 the termination of that discovery, we would then suggest
21 further steps, on the basis of how Staff felt about the
22 situation, along with OCA and the Company, and the Town of
23 Pelham.

24 CHAIRMAN HONIGBERG: All right. You'll

1 be filing a proposed procedural schedule, I'm sure, and
2 we'll get a look at it after your technical session.
3 That's right, is it not?

4 MR. SPEIDEL: Yes. After we run it
5 through Pelham, obviously.

6 CHAIRMAN HONIGBERG: All right. All
7 right, anything else we need to do then?

8 *[No verbal response]*

9 CHAIRMAN HONIGBERG: All right. We will
10 adjourn and leave you to your technical session. Thank
11 you all.

12 **(Whereupon the prehearing conference was**
13 **adjourned at 9:15 a.m., and a technical**
14 **session was held thereafter.)**

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