

STATE OF NEW HAMPSHIRE  
BEFORE THE  
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

DG 16-770

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

CONCORD STEAM CORPORATION

Joint Petition for Approval of an Asset Purchase Agreement

**JOINT OBJECTION OF LIBERTY AND CONCORD STEAM**  
**TO**  
**THE JORDAN INSTITUTE'S PETITION TO INTERVENE**

NOW COME Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities (“Liberty”) and Concord Steam Corporation (“Concord Steam”) by and through their undersigned attorneys and object to The Jordan Institute’s Petition to Intervene in this docket by stating as follows:

1. The Commission’s July 26, 2016 Order of Notice in the above-captioned docket directed any party seeking to intervene in the proceeding to file a petition on or before September 6, 2016 “stating the facts demonstrating how its rights, duties, privileges, immunities or other substantial interest may be affected by the proceeding, as required by N.H. Code Admin. Rule Puc 203.17 and RSA 541-A:32, I(b).” *Order of Notice*, DG 16-770 (July 26, 2016), p. 3. The Order of Notice also stated that objections to such petitions must be filed on or before September 9, 2016. *Id.* This Objection, therefore, is timely filed.

2. On August 31, 2016, The Jordan Institute (“Jordan Institute”) filed a Petition requesting intervention in this docket which states, among other things, its intent to limit its participation to issues associated with energy efficiency. Jordan Institute asserts that it “has an

interest” in the issues cited in the Commission’s July 26, 2016 Order of Notice in this docket and in “the role that energy efficiency may/should play in buildings affected by the discontinuance of services by Concord Steam and the purchase of assets by Liberty Utilities.” *Petition to Intervene*, p. 1.

3. The issues identified in the Order of Notice in this docket are “related to RSA 374:30 and whether the transfer of assets from Concord Steam to Liberty is in the public good, and whether the proposed transaction will have an adverse effect on the rates, terms, service or operations of Liberty.” *Order of Notice*, DG 16-770 (July 26, 2016), p. 2.

4. To qualify for intervention, a petitioner must state facts demonstrating how its rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding or that the petitioner qualifies under any provision of law. *See* RSA 541-A:32, I(b). The presiding officer must also find that the interests of justice and orderly and prompt conduct of the proceedings would not be impaired by allowing intervention. *See* RSA 541-A:32, I(c).

5. Although Jordan Institute states it “has an interest in the issues cited by the Commission,” this general statement of “interest” is not commensurate with facts demonstrating how rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding. As the Commission has observed, a mere interest in a proceeding “is not the same as having a legal interest of some nature that may be affected by the proceeding.” *North Atlantic Energy Corporation, et al.*, DE 02-075, Order No. 24,007 (July 8, 2002) at 3.

6. In paragraph 6 its Petition, Jordan Institute cites its concerns that the time frame within which Concord Steam seeks to discontinue service will not leave Concord Steam’s customers with enough time “to make thoughtful decisions” about upgrades and installations needed for replacement service. In addition, paragraphs 7 and 8 of the Petition to Intervene

describe considerations faced by Concord Steam's customers who may pursue energy efficiency measures when converting from steam service to another heating source. However, these factual assertions do not demonstrate how Jordan Institute's rights, duties, privileges, immunities or other substantial interests may be affected by this proceeding. Although Jordan Institute may have an interest in whether customer conversions will be made according to best energy efficiency practices, it does not have a "legal nexus to the outcome" of the Commission's decision on whether to allow Concord Steam to sell certain of its assets to Liberty. Accordingly, Jordan Institute does not qualify for intervention in this case. *See North Atlantic Energy Corporation, et al., supra.*

7. Concord Steam and Liberty recognize the Commission's discretionary authority to grant a petition to intervene "at any time, upon determining that such intervention would be in the interests of justice and would not impair the orderly conduct of the proceedings." RSA 541-A:32, II. However, the Commission should not exercise that discretion here because the interests of justice would not be furthered by Jordan Institute's intervention and such intervention would impair the orderly conduct of the proceedings. The interests of justice in this case require a timely adjudication of the question of whether the Asset Purchase Agreement should be approved. This Agreement is central to Concord Steam's plan to discontinue service and to provide its customers with a smooth transition to an alternate service provider of their choice. Concord Steam, Liberty and their customers are in need of certainty concerning the sale of Concord Steam's assets to Liberty. Allowing Jordan Institute to pursue the issue of energy efficiency in this docket unreasonably and unnecessarily expands the scope of the proceeding to include issues that have no bearing on the whether the sale of specific assets owned by Concord Steam to Liberty is in the public good. This raises serious due process issues as well as practical

concerns, as pursuing tangential issues in this docket would put additional burdens on Concord Steam, Liberty, Commission Staff and other parties. As such, The Jordan Institute's participation would impair the orderly conduct of the proceedings in this docket.

8. Lastly, the fact that Jordan Institute has intervened in other policy dockets such as those involving the Energy Efficiency Resource Standard and Core Energy Efficiency Programs is irrelevant to the question of whether Jordan Institute should be allowed to intervene in this proceeding, which involves completely different issues that are unrelated to the specific question of whether the Asset Purchase Agreement should be approved. As indicated herein, Jordan Institute fails to meet the mandatory and discretionary intervention standards for intervention in this docket. Accordingly, its Petition to Intervene must be denied.

WHEREFORE, Liberty and Concord Steam Corporation respectfully request that the Commission deny Jordan Institute's Petition to Intervene in this docket.

Respectfully submitted,

**CONCORD STEAM CORPORATION**  
By its Attorneys,  
**ORR & RENO, P.A.**

**Liberty Utilities (EnergyNorth  
Natural Gas) Corp.**

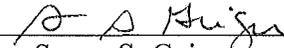
By: *S. S. Geiger*  
Susan S. Geiger  
45 South Main St.-P.O. Box 3550  
Concord, NH 03302-3550  
(603) 223-9154  
[ssg@orr-reno.com](mailto:ssg@orr-reno.com)

By: *Michael J. Sheehan (SSG)*  
Michael J. Sheehan  
Senior Counsel  
15 Buttrick Road  
Londonderry, NH 03053  
(603) 216-3635  
[Michael.Sheehan@LibertyUtilities.com](mailto:Michael.Sheehan@LibertyUtilities.com)

Dated: September 8, 2016

**Certificate of Service**

I hereby certify that on this 8<sup>th</sup> day of September, 2016, I caused a copy of this Objection to be delivered by electronic mail to the Service List in this docket.

  
\_\_\_\_\_  
Susan S. Geiger

1591960\_1