

DG 17-200

STATE OF NEW HAMPSHIRE

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December 29, 2017

Ms. Debra A. Howland
Executive Director
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, New Hampshire 03301

29 DEC '17 AM 11:29

Re: Docket No. DG 17-____
Energy North Natural Gas Corp. d/b/a Liberty Utilities
Petition for Temporary Waiver of N.H. Code Admin. Rules Puc 506.03

Dear Ms. Howland:

Energy North Natural Gas Corp. d/b/a Liberty Utilities (Liberty) has served the Office of the Consumer Advocate (OCA) with a copy of the petition it filed earlier today requesting a "temporary waiver" of N.H. Code Admin. Rules Puc 506.03. This rule requires Liberty to maintain a specified level of on-site storage inventory volume during the coldest part of the winter, i.e., December 1 through February 14. Liberty requests the waiver in light of the "extremely cold weather now gripping New Hampshire" which, according to Liberty, is causing "trucking constraints."

The OCA respectfully requests that the Commission deny Liberty's request. The applicable standard for a waiver of the Commission's rules is found in Puc 201.05, which requires in relevant part a finding that the waiver "serves the public interest." In determining the public interest for this purpose, the Commission must consider whether compliance with the rule would be "onerous or inapplicable given the circumstances of the affected person" or whether "[t]he purpose of the rule would be satisfied by an alternative method proposed."

Liberty has not proposed an alternative method for complying with Puc 201.05 which, by its terms, is intended to facilitate peak shaving. Puc 502.18 defines peak shaving as "the use of fuels and equipment to generate or manufacture gas to supplement the normal supply of pipeline gas during periods of extremely high demand." In other words, the on-site storage requirements set forth in Puc 506.03 are intended to provide a modicum of insulation for consumers, who are fully

exposed to Liberty's fuel costs, from the sort of drastic price volatility typical of the extreme cold weather currently gripping New England.

Since Liberty has not proposed an alternative compliance method, it is presumably relying on the 'compliance would be onerous' prong of the applicable "serves the public interest" test. Liberty's argument about onerousness is unpersuasive in the circumstances.

According to Liberty,

this cold weather is placing a large demand on trucking. The Company regularly refills its on-site storage tanks with trucked deliveries of propane and LNG. EnergyNorth, other gas utilities, and many commercial users of these fuels all need additional deliveries because of the extreme temperatures. This increased demand is causing scheduling constraints and timing issues of those deliveries. Thus the Company may be unable to refill its storage tanks as quickly as usual.

Liberty Petition at paragraph 5.

Another way of looking at this scenario is that the current cold snap, while unquestionably at the extreme end of New England weather, is hardly unprecedented and falls squarely within the sort of meteorological conditions that natural gas utilities are expected to anticipate and plan for prudently. Waiving Puc 506.03 in these circumstances would amount to failing to apply the rule in precisely those circumstances the rule was promulgated to address.

According to Liberty, the requested rule waiver would also give the utility "the flexibility to avoid making spot purchases at unreasonably high prices" in circumstances where "LNG and propane prices are currently well below the natural gas spot prices in the New England market area." *Id.* at paragraph 7. However, Liberty later indicates that this requested flexibility will only "possibly mitigate price increases that would otherwise be borne by the Company's customers."

Another way of looking at this scenario is that Liberty is requesting rules "flexibility" to avoid the consequences of what may well have been imprudent management of its on-site storage. The Commission should not allow utilities to obtain rules waivers so as to shield themselves from subsequent prudence reviews. This is especially true given that we appear to be in the early stages of what may prove to be a very harsh winter. Although Liberty seeks to reassure the Commission that "the weather is currently forecasted to normalize in about 10 days," which will allow Liberty "to comfortably return to the 100% storage requirements," *id.* at paragraph 6, neither Liberty's customers nor the Commission can simply assume this rosy scenario will play out.

Finally, the OCA notes that paragraph 11 of the Liberty petition states that the Company "has discussed this matter with Staff." Notably absent is an indication that Commission Staff has assented to the requested waiver.

In these circumstances, the Commission should deny the request to waive Puc 502.18 and, as necessary, scrutinize the prudence of Liberty's management of on-site storage in the customary after-the fact fashion.

Thank you for considering the view of the OCA and best wishes for the new year.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Maurice Kreis". The signature is fluid and cursive, with a large initial "D" and "M".

D. Maurice Kreis
Consumer Advocate

Cc: Michael J. Sheehan, Esq.