

STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION

NHPUC 26MAR'19 9:49

March 12, 2019 - 10:38 a.m.  
Concord, New Hampshire

RE: DG 18-194

LIBERTY UTILITIES (ENERGYNORTH  
NATURAL GAS) CORP. d/b/a  
LIBERTY UTILITIES: Petition for  
Expansion of Franchise to the Town  
of Epping and Waiver of the Tariff  
Filing Requirements Pursuant to  
Puc 1603.02(a).  
(Prehearing conference)

**PRESENT:** Chairman Martin P. Honigberg, Presiding  
Commissioner Kathryn M. Bailey  
Commissioner Michael S. Giaimo

Sandy Deno, Clerk

**APPEARANCES:** Reptg. Liberty Utilities (EnergyNorth  
Natural Gas) Corp. d/b/a Liberty  
Utilities:  
Michael J. Sheehan, Esq.

**Reptg. Residential Ratepayers:**  
Pradip Chattopadhyay, Asst. Cons. Adv.  
Office of Consumer Advocate

**Reptg. PUC Staff:**  
Lynn Fabrizio, Esq.  
Stephen Frink, Director/Gas & Water  
Randall Knepper, Director/Safety Div.  
Al-Azad Iqbal, Gas & Water Division

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

**CERTIFIED  
ORIGINAL TRANSCRIPT**

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**P R O C E E D I N G**

CHAIRMAN HONIGBERG: We apologize for the scheduling confusion regarding this prehearing conference. The Order of Notice had ten o'clock, I think everything else said this afternoon. So, I see many of the relevant folks I would expect to see here today.

So, it is Docket 18-194, which is a Petition by Liberty Utilities to provide gas service in the Town of Epping.

Before we do anything else, let's take appearances.

MR. SHEEHAN: Good morning, Commissioners. Mike Sheehan, for Liberty Utilities (EnergyNorth Natural Gas) Corp.

CHAIRMAN HONIGBERG: Let's just deal with the OCA and Staff, and we'll come to intervenors in a minute.

DR. CHATTOPADHYAY: I'm Pradip Chattopadhyay, the Assistant Consumer Advocate. I'm representing the New Hampshire Office of Consumer Advocate.

MS. FABRIZIO: Lynn Fabrizio, Staff attorney, on behalf of Commission Staff today.

1 And with me at the table are Steve Frink,  
2 Director of the Gas and Water Division; Randy  
3 Knepper, Director of the Safety Division; and  
4 Al-Azad Iqbal, a Utility Analyst with the Gas  
5 and Water Division.

6 CHAIRMAN HONIGBERG: All right. We  
7 have a Petition to Intervene filed by Northern.  
8 Mr. Sheehan?

9 MR. SHEEHAN: We do not object.

10 CHAIRMAN HONIGBERG: Does anybody  
11 object?

12 *[No verbal response.]*

13 CHAIRMAN HONIGBERG: All right.  
14 Mr. Taylor, your motion has been granted. Why  
15 don't you enter your appearance.

16 MR. TAYLOR: Good morning,  
17 Commissioners. Patrick Taylor, on behalf of  
18 Northern Utilities, Inc.

19 CHAIRMAN HONIGBERG: All right. We  
20 are here to hear the parties' preliminary  
21 positions. Are there matters we need to take  
22 up before we do that?

23 *[No verbal response.]*

24 CHAIRMAN HONIGBERG: Seeing none.

1 Mr. Sheehan, why don't you start us off.

2 MR. SHEEHAN: Thank you,  
3 Commissioners.

4 In this docket, 18-194, Liberty filed  
5 for permission to serve the Town of Epping. As  
6 depicted in our filing, our proposal was to  
7 serve most of the town. We proposed running a  
8 pipe from the west side of Epping, near the  
9 proposed LNG facility, to what I have called  
10 the "Route 125 corridor", which is the large  
11 commercial district in central or eastern  
12 Epping, and to build out from that backbone to  
13 various neighborhoods and other businesses and  
14 homes along the way.

15 As the Commission is well aware, in  
16 Docket 18-094, Northern's request to serve  
17 Epping, the Commission granted that Petition a  
18 few weeks ago. And it raised, obviously,  
19 questions about what was left with Liberty's  
20 petition. We read the order and the Order of  
21 Notice in this case to suggest that the  
22 Commission did not intend to grant Northern the  
23 exclusive franchise for the entire Town of  
24 Epping. But to be careful, we did file a

1 Motion for Rehearing/Reconsideration to ask the  
2 Commission to make that clear.

3 If the Commission agrees that or  
4 confirms that its order in the Northern docket  
5 did not grant Northern the exclusive franchise  
6 for the entire town, then there is something  
7 left for Liberty to serve, and we can go  
8 forward with our franchise request.

9 However, because Northern has been,  
10 at a minimum, has been granted the right to  
11 serve the 125 corridor, that was an important  
12 part of our proposal. As you know, we proposed  
13 to run a pipe essentially from the west side of  
14 the Epping to the east. It was that corridor  
15 that made such a backbone economically viable.

16 If the Commission confirms that  
17 Northern has a right to serve that area, and  
18 the rest of Epping is open, we would have to go  
19 back to the drawing board, so to speak, and  
20 determine what is still economic to serve in  
21 Epping. It will be a very different plan,  
22 because we don't have the anchors that are  
23 surrounding the 125 corridor. It will be a  
24 much scaled-down plan because of those

1 economics. And therefore, the plan that you  
2 have in front of you, in our initial filing, is  
3 no longer appropriate.

4 So, subject to the Commission  
5 confirming that there are franchise rights in  
6 Epping to be had, we would withdraw our  
7 Petition in this docket, rework our maps,  
8 rework our finances, and come back to you with  
9 a new different scaled-down petition. So,  
10 that's where we stand.

11 I checked my notes, and that's what I  
12 intended to say. Thank you.

13 CHAIRMAN HONIGBERG: Mr. Taylor,  
14 you're here. In the other docket, your docket,  
15 you have a pending motion from Liberty. Are  
16 you going to be filing anything in response to  
17 that?

18 MR. TAYLOR: Yes. We do intend to  
19 filing -- to file something in response to  
20 Liberty's motion. And so, I don't want to get  
21 ahead of what we will file in response.

22 My apologies, this -- the red light  
23 is not coming on. So, I'm guessing it's not  
24 plugged in or there's some other technical

1 problem.

2 CHAIRMAN HONIGBERG: Off the record.

3 *[Brief off-the-record discussion*  
4 *ensued.]*

5 CHAIRMAN HONIGBERG: All right.

6 Well, you're going to respond to the motion.  
7 But I think it's clear, Mr. Sheehan and  
8 everyone else, that Northern at least has the  
9 right to serve customers in the area where it  
10 said it was going to serve customers.

11 So, I guess I'm directing this to  
12 Mr. Sheehan. Doesn't that put you in the  
13 position at the very least of knowing that,  
14 that that area Northern intends to try and  
15 serve?

16 MR. SHEEHAN: Yes. But the -- and  
17 it's a legal question that causes us concern.  
18 If the order did grant Northern more than that,  
19 i.e., the exclusive right to serve all of  
20 Epping, therefore we can't serve any of Epping,  
21 that's why I filed the motion.

22 CHAIRMAN HONIGBERG: Yes. All right.  
23 I don't -- all right. The motion -- the order  
24 clearly doesn't say that. It's never been



1 Northern's position, from prior dockets that  
2 are analogous, that franchise rights are  
3 exclusive. You've never taken the position  
4 that franchise rights are exclusive. I don't  
5 think Staff has taken the position. I don't  
6 think the OCA has taken the position franchise  
7 rights are exclusive as a matter of law.

8 So, I think you can assume, without  
9 us having decided it in this docket formally --  
10 I'm sorry, in the other docket formally, that  
11 the right's not exclusive in the Town of  
12 Epping.

13 There's no reason to think that it  
14 is, is there?

15 MR. SHEEHAN: As is stated in my  
16 motion, there were some phrases that could be  
17 interpreted that way. And that's, again, we  
18 were being careful. And the last thing we  
19 wanted to be in this docket is have someone say  
20 "Oh, we've already granted that franchise to  
21 Epping. You're out of luck."

22 CHAIRMAN HONIGBERG: All right.

23 MR. SHEEHAN: So, that was the  
24 reason.

1                   Based on what the Chair has just  
2                   said, in that there are franchise rights left  
3                   to be had in Northern -- I mean, in Epping, so  
4                   to speak, we will withdraw this Petition and  
5                   come back with a scaled-down economic plan at  
6                   the appropriate time.

7                   CHAIRMAN HONIGBERG: All right.  
8                   Mr. Taylor, do you have anything you want to  
9                   add in this docket or giving us a spoiler as to  
10                  what you might say in the other docket?

11                  MR. TAYLOR: I think what I would,  
12                  just for a point of clarification, I agree that  
13                  there's nothing in the order that says that the  
14                  grant of -- or, explicitly says that the grant  
15                  of a franchise is exclusive.

16                  I also just want to be clear that our  
17                  position is that the order does not expressly  
18                  limit the franchise that was given to Northern  
19                  to just the area of its initial build-out as  
20                  described in its Petition. And so, I do want  
21                  to be very clear about that.

22                  CHAIRMAN HONIGBERG: That's fair.  
23                  And I expect you'll be saying that. And I  
24                  understand the position you're going to be

1 taking there.

2 All right. Anything else from you  
3 for now, Dr. Chattopadhyay?

4 DR. CHATTOPADHYAY: Yes. Obviously,  
5 Brian Buckley was supposed to be here, given  
6 the confusion in the timing, --

7 CHAIRMAN HONIGBERG: And that's  
8 entirely our fault, and we apologize for that.

9 DR. CHATTOPADHYAY: That's okay. So,  
10 I'm just trying to provide our assessment of  
11 the docket until now. And it's our belief,  
12 too, that the franchise right that was granted  
13 to Unitil isn't necessarily exclusive. We were  
14 still sort of looking at other information to  
15 make sure that that conclusion is correct. But  
16 that's largely in the regal -- sorry, in the  
17 legal realm, so I don't want to overstate  
18 anything.

19 From what is new to us is what I just  
20 heard from the Company, and I can tell you that  
21 we will be okay with that.

22 CHAIRMAN HONIGBERG: Thank you.

23 Ms. Fabrizio.

24 MS. FABRIZIO: Thank you, Mr.

1 Chairman. Staff also sees no legal obstacle in  
2 statute or rule to Liberty seeking franchise  
3 rights in the Town of Epping concurrent with  
4 Northern's existing rights. Although, Staff  
5 would probably not support, if the petition  
6 came in overlapping rights within the town  
7 territory.

8 However, Staff does believe that  
9 Liberty's current Petition is premature, and  
10 would have recommended the Company withdraw its  
11 Petition without prejudice at this time,  
12 because for those reasons of premature  
13 inadequacies, essentially. So, we are  
14 appreciative of the Company's willingness to  
15 withdraw at this time.

16 CHAIRMAN HONIGBERG: All right. I  
17 guess we'll come back to how we're going to  
18 wrap up.

19 But we have two members of the public  
20 who wish to speak to this matter. They are  
21 Lila Kohrman-Glaser and Liz Fletcher. And they  
22 both represent that they're from an  
23 organization called "350NH". And so, they're  
24 free to come forward and speak. I guess I

1 would ask one of you to identify what "350NH"  
2 is.

3 So, Ms. Kohrman-Glaser, you want to  
4 find a microphone that's working and --

5 MS. KOHRMAN-GLASER: Hi. My name is  
6 Lila.

7 *[Court reporter interruption.]*

8 CHAIRMAN HONIGBERG: And off the  
9 record.

10 *[Brief off-the-record discussion*  
11 *ensued.]*

12 MS. KOHRMAN-GLASER: So, 350 New  
13 Hampshire [350NH] is a statewide climate action  
14 and environmental justice organization in New  
15 Hampshire.

16 So, my name is Lila. I'm here today  
17 because I have really deep concerns about  
18 Liberty Utilities' aggressive expansion plan  
19 for gas in the State of New Hampshire,  
20 including the franchise that they're asking for  
21 today, and including the Granite Bridge Project  
22 that's still under review.

23 In part, my concerns are due to  
24 Liberty Utilities' atrocious safety record in

1 the state. We all know that they have racked  
2 up tens of thousands of dollars in fines, that  
3 we know about the disaster in Keene.

4 I've been working closely with a  
5 local group in Epping, New Hampshire called  
6 "Citizens for Local Control". And most of them  
7 couldn't be here today, because it's actually  
8 Town Meeting Day, and they are voting on a  
9 warrant in Epping that calls for the Town to  
10 have a vote on whether the Granite Bridge tank  
11 is sited in Epping.

12 So, I think that, you know, the  
13 recent explosions in northern Mass. and the  
14 explosions in Ohio, and the gas pipeline  
15 explosions that we've been watching happen all  
16 over the country, and have really put this in  
17 perspective for a lot of us.

18 And our very own Maggie Hassan,  
19 actually at a recent hearing, after the  
20 explosion in Lawrence, just a quote that she  
21 said is "It's 2018 in the United States of  
22 America, and nobody should be worried when they  
23 come home at night that their house is going to  
24 explode."

1 Well, it's 2019 now. And I would  
2 urge the Commissioners and everyone here to  
3 look not just at the cost of construction of  
4 one of these projects, but to also consider the  
5 total and real costs of these projects: To  
6 consider the cost of potential explosions; to  
7 consider the cost of the 2.2 percent of  
8 Liberty's gas that they report lost directly  
9 from pipelines, that's methane going right into  
10 our atmosphere; to look at the cost of the lost  
11 property values for the families in Epping who  
12 live near the proposed Granite Bridge; and to  
13 look at the cost long term of continuing to  
14 pipe billions of dollars out of our state to  
15 buy energy that we could be producing here at  
16 home.

17 So, it's my understanding, and  
18 correct me if I'm wrong, that there is no other  
19 town in New Hampshire that has a gas franchise  
20 from two different utilities. And I think that  
21 it's completely, you know, in my opinion, it  
22 seems questionable to grant Liberty the right  
23 to also serve the communities of Epping. Just  
24 because, if they can't serve the communities of

1 Epping, then another project that's currently  
2 under review is financially unfeasible for  
3 them.

4 You know, frankly, I'm not worried --  
5 I'm not concerned with what Liberty's  
6 shareholders take as a hit if the Granite  
7 Bridge is not built. I'm concerned with the  
8 lives and the communities in Epping, New  
9 Hampshire and around the state that are going  
10 to be gravely affected by this gas expansion  
11 plan.

12 So, I would just urge the  
13 Commissioners and everyone in this room to  
14 please consider all of the aspects of this  
15 decision. And when you make a decision about  
16 whether to grant Liberty the right to also have  
17 a franchise in Epping, you know, please  
18 consider what that means for the Granite  
19 Bridge, and please consider what that means for  
20 the state as a whole and for our energy system,  
21 and for people like me who plan to spend  
22 another 75 years living on this planet, and  
23 hope to do so without the effects of  
24 catastrophic climate change.



1 Thank you very much.

2 CHAIRMAN HONIGBERG: I have a  
3 question.

4 MS. KOHRMAN-GLASER: Yes.

5 CHAIRMAN HONIGBERG: You mentioned  
6 Keene. What's your understanding of what  
7 happened in Keene?

8 MS. KOHRMAN-GLASER: My understanding  
9 of what happened in Keene, and I was not there  
10 to see it, is that, due to mistakes or  
11 negligence, or whatever you want to call it, on  
12 the part of Liberty Utilities, there was a  
13 pretty grave safety incident. And you know,  
14 fire departments were called in from three  
15 states, and it cost the City of Keene a lot of  
16 money.

17 And I don't bring up that incident  
18 because it is relevant specifically to gas, I  
19 understand that it wasn't a gas system. I  
20 bring it up as just a case study of the company  
21 that we're dealing with and the safety record  
22 that they have.

23 CHAIRMAN HONIGBERG: I recommend you  
24 do some Googling on that.

1 MS. KOHRMAN-GLASER: Will do. Thank  
2 you very much.

3 CHAIRMAN HONIGBERG: Liz Fletcher.

4 MS. FLETCHER: Hi. Thanks for  
5 letting me speak. My name is Liz Fletcher. I  
6 live in Mason, New Hampshire, to the southwest  
7 of here.

8 And I'd like to speak actually  
9 related to the Keene project that Liberty has  
10 proposed. And I wanted to express appreciation  
11 for the careful work of the Safety Division,  
12 PUC Safety Division, in reviewing this project,  
13 and to ask that they do a similar study for  
14 whatever Liberty plans to expand in Epping,  
15 within the Granite Bridge or this franchise,  
16 because they really seem to have, the Keene  
17 experience shows, that Liberty has a somewhat  
18 casual attitude towards risk-taking, because  
19 the Safety Division found 171 places where  
20 Liberty's plans needed to be changed to improve  
21 safety in the Keene example. And that's a  
22 clear indication Liberty is not well-prepared  
23 to undertake significant expansion projects.

24 So, I would ask that this careful

1 study be done, which I'm sure will be done, and  
2 that it should be binding upon Liberty, in the  
3 Epping expansion, in the Granite Bridge, to  
4 carefully follow everything the Safety Division  
5 recommends, because they really do a good job  
6 to protect people's safety.

7 And another thing that the Safety  
8 Division found in Keene was that Liberty did  
9 not take full consideration of various  
10 implications of the conversion of their  
11 propane-air system to a compressed natural gas  
12 system, and this, because these two gases are  
13 different, would cause leaks in the existing  
14 old cast iron piping system, because the seals  
15 would dry out. So that, to replace those  
16 pipings, would be \$15 million, you know,  
17 according to the Safety study, and this was not  
18 budgeted as part of that Keene conversion  
19 project.

20 So, again, just to urge the PUC to  
21 make sure that very careful analysis is done of  
22 foreseeable costs that may not be included in  
23 the budget for the Keene -- I mean, the Epping  
24 expansion and the Granite Bridge, because that

1 would be a serious burden on ratepayers that  
2 could have been foreseen and might have shown  
3 that the whole project was not fiscally viable.

4 Thank you.

5 CHAIRMAN HONIGBERG: All right.  
6 That's the members of the public who had signed  
7 up to speak.

8 I guess you have a technical session  
9 scheduled after this. It seems you can talk  
10 about how best to proceed and do whatever  
11 paperwork needs to be done.

12 I think, Mr. Sheehan, if you wanted  
13 to wait until your motion has been ruled on in  
14 the other docket, that would seem to make sense  
15 to me, that this would just be put on hold  
16 until that motion is, in fact, ruled on. And  
17 then, whatever steps you want to take would  
18 make sense at that point.

19 Do you agree with that, Ms. Fabrizio?

20 MS. FABRIZIO: I do.

21 CHAIRMAN HONIGBERG: All right. Is  
22 there anything else we can do for you then  
23 before we leave you to the technical session?

24 *[No verbal response.]*

1 CHAIRMAN HONIGBERG: All right. We  
2 are adjourned. Thank you all.

3 *(Whereupon the prehearing*  
4 *conference was adjourned at*  
5 *10:58 a.m., and a technical*  
6 *session was held thereafter.)*  
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