

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DG 13-226**

**ENERGYNORTH NATURAL GAS, INC. d/b/a LIBERTY UTILITIES**

**Petition for a License to Construct and Maintain a  
Natural Gas Pipeline Beneath the Soucook River**

**Order *Nisi* Granting License**

**ORDER NO. 25,572**

**September 19, 2013**

On July 29, 2013, EnergyNorth Natural Gas, Inc., d/b/a Liberty Utilities (Liberty), filed a petition pursuant to RSA 371:17 seeking a license to construct and maintain a natural gas pipeline beneath the Soucook River in order to provide service to an asphalt plant in Pembroke that is owned and operated by Continental Paving, Inc. (Continental). The petition and subsequent docket filings, other than information for which confidential treatment is requested of or granted by the Commission, is posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2013/13-226.html>.

**I. BACKGROUND**

According to the petition, Liberty and Continental reached an agreement to construct a new 4,400 foot natural gas pipeline from Josiah Bartlett Road in Loudon to Continental's asphalt plant in Pembroke, near the Pembroke-Concord city line. The agreement provides for Liberty to build a new regulator station at Josiah Bartlett Road off the existing main. Liberty will leave an 8 inch plastic stub and valve for Continental to tie into. Continental agreed to employ a qualified contractor to extend the new main down Staniels Road, Veterans Drive, through fields, woods

and underneath the Soucook River to Continental's asphalt plant. The petition included maps and drawings detailing the route, the location of the Soucook River crossing, and precisely how the pipeline will travel under the river.

When the contractor finishes its portion of the new pipeline, and after Liberty's acceptance of the contractor's work, Continental will transfer ownership of the pipeline to Liberty. Liberty is responsible for attaching the pipeline to its distribution system and will then be responsible for maintaining the new pipeline.

Liberty states that Continental has obtained all necessary permits and easements for the crossing; the easements will be transferred to Liberty upon completion of the project. No taking of private property or other acquisition of property rights is required.

Finally, Liberty claims that the crossing is necessary to serve Continental, and that Liberty can exercise the rights granted by the license sought in this petition without affecting or diminishing the rights of the public to use and enjoy the waters of the Soucook River.

## **II. SUMMARY OF STAFF REVIEW**

Commission Staff reviewed the petition and its attachments, land ownership records, Liberty's responses to discovery requests, and state and federal regulations governing such river crossings. Staff confirmed that Continental obtained necessary approvals from the New Hampshire Department of Environmental Services (NHDES), that Continental has the necessary easements for the project, and confirmed that the proposed pipeline meets applicable construction and safety standards. Based on this review, Commission Staff filed a memorandum on September 5, 2013, recommending approval of Liberty's petition on the conditions that approval is limited to the natural gas pipeline under consideration in this docket, and that the

pipeline is constructed, operated, maintained and - if applicable - altered, consistent with Puc 506.02 and 49 CFR Part 192, as amended.

### **III. COMMISSION ANALYSIS**

Under RSA 371:17, public utilities and other corporations petition the Commission for a license to construct pipelines over, under, or across any public waters of the state, whenever such facilities are necessary to meet the reasonable requirements of service to the public. Public waters, as defined in RSA 371:17, include all ponds of more than 10 acres, tidewater bodies, and such streams or portions thereof as the Commission may prescribe. The NHDES is assigned responsibility under RSA 271:20 for preparing, maintaining, and publishing an official list of all public waters in the State. The Soucook River is on NHDES's list of public waters. *See* [des.nh.gov/organization/commissioner/pip/publications/wd/documents/olpw.pdf](https://des.nh.gov/organization/commissioner/pip/publications/wd/documents/olpw.pdf).

Based on the information presented in Liberty's submissions and Staff's memorandum, we find the proposed crossing of the Soucook River to be necessary for Liberty to meet the reasonable requirements of reliable service to the public as required by RSA 371:17, and that the requested license may be exercised without substantially affecting the public rights in the waters in question, as required for approval under RSA 371:20. We find the crossing is in the public good and therefore approve the petition subject to the conditions recommended by Staff and contained in the ordering clauses set out below. Our decision is issued on a *nisi* basis to provide any interested party the opportunity to submit comments on Liberty's petition or to request a hearing. We note that Liberty is responsible for obtaining any and all other permits for the installation of the proposed crossings from any federal, state, and local authorities having jurisdiction. Finally, inasmuch as NHDES is responsible by statute for maintaining the official

list of public waters, we require that notice of the proposed crossing be sent to NHDES. We also require notice of this crossing to be sent to the Towns of Pembroke and Loudon, and the City of Concord.

**Based upon the foregoing, it is hereby**

**ORDERED *NISI***, that subject to the effective date below, Liberty is authorized, pursuant to RSA 371:17 to construct, maintain and operate the proposed natural gas pipeline over and across the public waters described in its petition and depicted in its July 29, 2013, filing; and it is

**FURTHER ORDERED**, that this approval is limited to the natural gas pipeline under consideration in this docket, and is conditioned on the requirement that Liberty constructs, operates, maintains and - if applicable - alters the piping consistent with Puc 506.02 and 49 CFR Part 192, as amended; and it is

**FURTHER ORDERED**, that Liberty shall provide a copy of this Order *Nisi* to the (i) Town Clerks of Loudon and Pembroke, New Hampshire, and the City Clerk of Concord, New Hampshire (ii) the New Hampshire Attorney General and (iii) the owner of the land bordering on the eastern edge of the Soucook River (*i.e.*, Kara Realty Associates, LLC), and (iv) the New Hampshire Department of Environmental Services by first class mail no later than September 27, 2013, and to be documented by affidavit filed with this office on or before October 15, 2013; and it is

**FURTHER ORDERED**, that the Petitioner shall cause a summary of this Order *Nisi* to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than

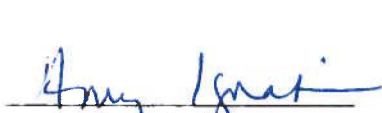
September 27, 2013 and to be documented by affidavit filed with this office on or before October 15, 2013; and it is

**FURTHER ORDERED**, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than October 4, 2013 for the Commission's consideration; and it is

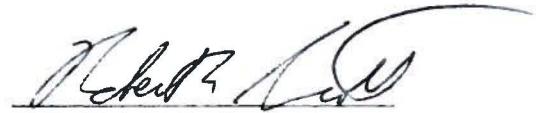
**FURTHER ORDERED**, that any party interested in responding to such comments or request for hearing shall do so no later than October 11, 2013; and it is

**FURTHER ORDERED**, that this Order *Nisi* shall be effective October 18, 2013, unless Liberty fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of September, 2013.

  
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Amy L. Ignatius  
Chairman

  
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Michael D. Harrington  
Commissioner

  
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Robert R. Scott  
Commissioner

Attested by:

  
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Debra A. Howland  
Executive Director