

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 14-091

**LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP.
D/B/A LIBERTY UTILITIES**

Petition to Approve Special Contract and Lease Agreement

Order Granting Petitions to Intervene

ORDER NO. 25,666

May 14, 2014

APPEARANCES: Sarah B. Knowlton, Esq., on behalf of Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities; Babak Alizadeh, *pro se*, on behalf of Innovative Natural Gas, LLC d/b/a iNATGAS; Drew Drummond, *pro se*, on behalf of Clean Energy Fuels; Philip E. Segaloff, Esq., on behalf of Global CNG, LLC; Jill M. Pfenning, Esq. on behalf of NG Advantage, LLC; the Office of Consumer Advocate by Susan W. Chamberlin, Esq., on behalf of residential ratepayers; and Alexander F. Speidel, Esq. with Michael J. Sheehan, Esq., on behalf of Commission Staff.

In this order we grant the outstanding petitions to intervene with limited participation by the four intervenors.

I. PROCEDURAL HISTORY

On April 4, 2014, Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities (Liberty) filed a petition seeking approval of agreements covering a special contract and lease with Innovative Natural Gas, LLC d/b/a iNATGAS (iNATGAS). The agreements provide for the construction of a compressed natural gas (CNG) facility on Liberty's property in Concord. iNATGAS will build and operate a CNG station that can fill CNG trailers and CNG-powered vehicles. iNATGAS will own the filling station. Liberty will own the compressors and related equipment that take natural gas from Liberty's pipeline, compress it, and provide iNATGAS with CNG. Liberty will retain ownership of the land. Because the

agreements require Liberty to sell gas to iNATGAS at rates that deviate from tariffed rates, they are “special contracts” and Liberty must demonstrate that they are “just and consistent with the public interest.” RSA 378:18. Also, for iNATGAS’ lease of Liberty’s property, the Commission must find that this lease is “for the public good.” RSA 374:30. Liberty requested accelerated consideration of its filing for a number of reasons not relevant to consideration of the intervention requests.

On April 14, 2014, the Commission issued an Order of Notice that, among other things, required anyone wishing to intervene to file an appropriate request by April 21, 2014, and gave Liberty until April 23, 2014, to object to any such request. The Order of Notice scheduled a prehearing conference before the Commission and a technical session with the Commission Staff (Staff) for April 23, 2014.

The Office of the Consumer Advocate (OCA) notified the Commission of its intent to participate on behalf of residential ratepayers by a letter dated April 17, 2014. RSA 363:28.

Four entities appeared at the April 23, 2014, prehearing conference and also filed late motions to intervene pursuant to RSA 541-A:32. Global CNG, LLC (Global) operates a CNG station in Maine. Transcript of April 23, 2014 Prehearing Conference (Tr.) at 20. Clean Energy Fuels (Clean Energy) is about to open a CNG station in Pembroke, New Hampshire, that is similar to that proposed by Liberty. Tr. at 22. NG Advantage, LLC (NG Advantage) owns a compressor station in northern Vermont and owns a fleet of specialized tube trailers. NG Advantage signed a contract to take delivery from the Clean Energy facility in Pembroke. NG Advantage Petition at 2-3. Xpress Natural Gas, LLC (XNG) also provides CNG trucking services. XNG Petition at 1. Global’s motion to intervene was filed on the day of the prehearing conference and technical session. The other three motions were filed the following day.

The four prospective intervenors participated to some extent in the technical session, including the discussion of the procedural schedule, and the Commission approved a schedule for this proceeding by a secretarial letter dated May 9, 2014.

II. POSITIONS OF THE PARTIES AND STAFF

A. Proposed Intervenors

According to their respective motions, Global and Clean Energy are direct competitors to the proposed CNG station. They cite this competition as grounds for their intervention. Global wrote that issues “raised in this proceeding may be applicable to Global ... particularly with regard to integrating the competitive aspects of vehicular CNG delivery systems with ratepayer funded pipeline and local distribution utility property.” Global Petition at 2. Clean Energy stated a similar concern that Liberty’s “ratepayer[s] will shoulder the financial risks of this nascent and speculative market.” Clean Energy Petition at 3.

In support of its petition to intervene, XNG cited potential issues “in regard to XNG’s vehicular CNG delivery systems and in regard to the onsite facilities at its customers’ locations in New Hampshire.” XNG Petition at 1.

Finally, NG Advantage cited three reasons in support of its request. First, NG Advantage has existing customers in New Hampshire and signed a contract with Clean Energy to take CNG from Clean Energy’s new facility. Second, NG Advantage is a potential customer of iNATGAS as NG Advantage could fill its trailers at the proposed facility. Third, NG Advantage stated it “has an interest in special contracts of this kind [since] it may enter into similar agreements in the future.” NG Advantage Petition at 2-3.

B. Liberty

In a letter filed April 29, 2014, Liberty indicated that it did not object to the four intervention requests.

C. Commission Staff and the OCA

Staff and the OCA did not file any objection to the intervention requests.

III. COMMISSION ANALYSIS

As a threshold matter, we first consider whether we should reject any or all of the motions to intervene as untimely. Neither Liberty nor Staff has taken the position that they have been prejudiced in any way by the prospective intervenors' tardiness and the prospective intervenors have given adequate reasons for not having made timely filings in these circumstances. Accordingly, we will consider the requests on their merits.

Although we find that the intervenors have each failed to state a right, duty, privilege, or interest in this proceeding that would require us to grant intervention pursuant to RSA 541-A:32, I(b), we will grant these intervention requests under the discretionary standards of RSA 541-A:32, II. These intervenors may be able to provide useful industry perspective regarding this novel CNG technology and the market for such technology, and shed light on the potential risks of the proposed Liberty-iNATGAS business model.

We limit the intervenors' participation as authorized by RSA 541-A:32, III to ensure an orderly and focused proceeding consistent with the procedural schedule approved for this docket. The intervenors shall not have access to confidential information produced during discovery, discussed during technical sessions, or presented at the hearing. N.H. Code Admin. Rules Puc 203.08. Upon our granting of this motion, we authorize Staff to furnish all existing, non-

confidential discovery requests and responses to the intervenors to enable them to participate meaningfully in this proceeding.

The intervenors' participation will also be limited to an examination of whether Liberty's investigation and analysis of the risks and benefits, to both the utility and its ratepayers, of Liberty's proposed business relationship with iNATGAS was reasonable and prudent; and whether the agreements are in the public interest. The intervenors' discovery and testimony, if any, must relate to those issues. The intervenors are also directed to coordinate and combine their discovery efforts to the greatest extent possible, and to resolve any discovery-related disputes in an informal and good-faith fashion. N.H. Code Admin. Rules Puc 203.09. As we get closer to a hearing on the merits, we will consider whether it is appropriate to impose additional limitations on the intervenors' participation at the hearing.

Based upon the foregoing, it is hereby

ORDERED, that the outstanding late-filed petitions to intervene by Clean Energy, Global, XNG, and NG Advantage are GRANTED pursuant to RSA 541-A:32, II; and it is

FURTHER ORDERED, that the parties shall abide by the scope of their participation as set forth in this order.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of May, 2014.



Amy L. Ignatius
Chairman



Robert R. Scott
Commissioner



Martin P. Honigberg
Commissioner

Attested by:



Kimberly Nolin Smith
Assistant Secretary