

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 14-091

LIBERTY UTILITIES (EnergyNorth Natural Gas)

**Petition for Approval of Amendment to Special Contract
with Innovative Natural Gas, LLC (iNATGAS)**

Order Amending Special Contract

ORDER NO. 26,002

April 6, 2017

This order approves an amendment to the special contract between Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities and Innovative Natural Gas, LLC (“iNATGAS”), for firm transportation of natural gas.

I. BACKGROUND

Historical background regarding Liberty Utilities’ (“Liberty”) special contract with iNATGAS may be found in Order No. 25,694 (July 15, 2014). In that order the Commission approved a special contract and lease agreement between Liberty and iNATGAS for firm transportation of compressed natural gas. On January 6, 2017, Liberty filed a petition seeking approval for an amendment to that special contract. iNATGAS is a re-seller of compressed natural gas (“CNG”) with a facility located in Concord, New Hampshire. Liberty and iNATGAS desire approval of an amendment that would: (i) identify the exact commencement date of operations; (ii) adjust the timing of the start of the take or pay requirements; (iii) change specific terms regarding payment of charges collected under the Local Delivery Adjustment Clause (“LDAC”); and (iv) update contact information. In support of its petition, Liberty submitted a technical statement of William J. Clark, a business development professional at Liberty. The technical statement explained the four issues being addressed by the amendment.

First, iNATGAS is required to take a minimum annual transportation quantity beginning on the Service Commencement Date of the contract.¹ At the time the contract was approved, that date was not known as the CNG facility was still under construction. Now that construction of the facility has been completed and a meter installed with an account number assigned to iNATGAS as of December 1, 2016, that date may be used for the Service Commencement Date of the contract. Accordingly, the amendment now defines the Service Commencement Date as December 1, 2016. This is a ministerial change in the contract and helps to set clearly defined dates for the take or pay interval periods, as explained in the next paragraph.

iNATGAS is required to take a minimum annual transportation quantity that is broken into three intervals. During this first interval, iNATGAS is required to take 300,000 dekatherms² per year. The first interval period was scheduled to begin on the Service Commencement Date and “not extend beyond December 31, 2016.” iNATGAS could not meet this requirement with a Service Commencement Date of December 1, 2016. The amendment deletes the reference to December 31, 2016, as the end of the first interval and simply ends the first interval at the expiration of 24 months from the Service Commencement Date. Interval 2 sets a minimum purchase quantity for the ensuing 24 calendar month period which begins at the end of Interval 1. Interval 3 sets another minimum purchase quantity which begins with the end of Interval 2 and extends for the remaining term of the 15-year contract. The minimum quantities under Intervals 2 and 3 remain unchanged at 500,000 and 1.3 million dekatherms respectively. iNATGAS must continue to “take or pay” for the required minimum usage under the terms of the special contract.

¹ The Service Commencement Date is a defined term under the terms of the contract and begins on “[t]he date the gas meter is turned on at [iNATGAS’s] location and an account number is assigned.”

² A dekatherm is a unit of energy equal to 10 therms or 1 million British thermal units with each therm being approximately 97 cubic feet of gas.

The third change to the special contract adds a clause providing that iNATGAS will be responsible for paying its applicable customer charge under the terms of the contract, but not any LDAC charges under Liberty's tariff. The fourth change to the special contract is purely ministerial and identifies updated contact information for Liberty, which has relocated its offices from Salem to Londonderry since entering into the original special contract. The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2014/14-091.html>.

II. SUMMARY OF STAFF REVIEW

Staff filed a recommendation on March 9, 2017. Staff reviewed the Company's petition and supporting documentation including the June 10, 2014, hearing transcript and Order No. 25,694, which approved the special contract. Staff concluded that the first and fourth issues addressed in the amendment are purely factual and reflect updates to the contract. Regarding the second issue, Staff concluded that the provision not allowing the first interval to extend beyond December 31, 2016, was not a factor in approving the original contract. On the third issue, Staff agreed with the parties that iNATGAS should not pay the LDAC charge. Staff thus recommended approval of the amendment. Staff also noted that the changes in the amendment were made and took effect before approval was sought from the Commission. Staff expects any future amendments to be submitted in advance of their effective dates.

III. COMMISSION ANALYSIS

RSA 378:18 authorizes the Commission to approve a special contract when "special circumstances exist which render such departure from the general schedules just and consistent with the public interest." *See Northern Utilities, Inc.*, Order No. 23,381 at 6 (January 6, 2000).

Based on the record in this docket and Staff's recommendation, we find that the proposed changes to the special contract are consistent with the intent of the 2014 Order approving the original special contract. The amendments are administrative and clarify elements of the agreement. Accordingly, we find the changes consistent with the public interest and approve the amendment.

We admonish Liberty for not seeking Commission approval before putting into effect its proposed amendment to the special contract. Special contracts are made in accordance with the laws of the State of New Hampshire and the rules of the Public Utilities Commission. Liberty violated both by not requesting in advance the changes to the contract that the parties wished to make. We have an obligation to ensure that special contracts pursuant to RSA 378:18, and any amendments thereto, are "just and consistent with the public interest." Amendments to special contracts shall not become effective until approved by the Commission. Puc 1606.03(f). Amendments to special contracts must be submitted for approval well in advance of the amendments taking effect and we expect Liberty to put procedures in place to ensure compliance going forward.

Based upon the foregoing, it is hereby

ORDERED, that the amendment to the special contract between Liberty and iNATGAS is APPROVED; and it is

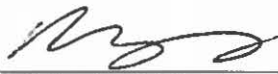
FURTHER ORDERED, that to the extent not inconsistent herewith, the other terms and conditions of the special contract approved in Order No. 25,694 shall remain in full force and effect; and it is

FURTHER ORDERED, that Liberty shall make a copy of the special contract, and the amendment thereto, available for inspection by any person at its principal office pursuant to

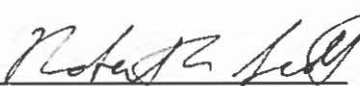
Puc 1606.03(a), and shall comply with all other provisions of Puc 1600, *et seq.*, for the duration of the contract; and it is

FURTHER ORDERED, that Liberty or its successor shall submit any future proposed amendments or changes to this special contract at least 90 days prior to the date such proposed amendments are intended to take effect.

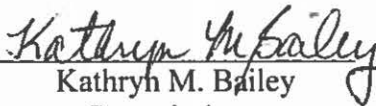
By order of the Public Utilities Commission of New Hampshire this sixth day of April, 2017.



Martin P. Honigberg
Chairman

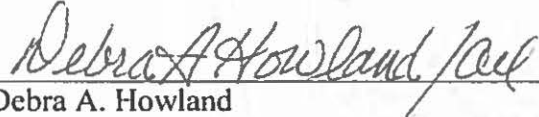


Robert R. Scott
Commissioner



Kathryn M. Bailey
Commissioner

Attested by:



Debra A. Howland
Executive Director