

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DG 18-107**

**LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP.  
d/b/a LIBERTY UTILITIES**

**Petition for Waiver of Puc 506.01(n) Clearance Requirements for Gas Regulators**

**Order Granting Waiver**

**ORDER NO. 26,199**

**December 12, 2018**

In this order, the Commission grants Liberty Utilities a limited waiver of N.H. Code Admin. Rules Puc 506.01(n), to authorize, in limited circumstances, the installation of certain gas regulators with less clearance than the rule allows.

**I. BACKGROUND**

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities (Liberty or the Company) is a public utility that distributes natural gas to approximately 90,000 customers in southern and central New Hampshire and the City of Berlin. On July 25, 2018, Liberty filed a petition for a waiver of N.H. Code Admin. Rules Puc 506.01(n). That rule requires the installation or operation of a gas regulator to be at least three feet from any source of ignition, an opening into a building, an air intake into a building, or any electrical source that is not intrinsically safe.

In its petition, Liberty requests a “limited waiver” of the three-foot clearance requirement for the occasional and “relatively infrequent situations where it is impossible or impracticable” to satisfy that requirement. Petition at 1-2. The Company describes such situations as arising due to “the amount and type of equipment installed on customer buildings, the design of decks and

large windows, homeowner landscaping concerns,” adding that “sometimes there is simply not enough room to maintain the [three-foot] clearance when installing the standard regulator.” *Id.* at 2. Liberty adds that it would not use the proposed alternative regulator “when its standard regulator can be used or when short vent lines can be installed in a way that does not affect the customer’s building appearance,” and that the waiver would “allow the Company to better and more safely serve its customers in locations where the [three-foot] clearance of Puc 506.01(n) cannot be met.” *Id.* at 3. Liberty does not indicate how often the need to address such clearance issues has arisen, or how many times, if any, a similar waiver has been necessary for individual installations.

To address the clearance requirements under such circumstances, Liberty proposes to offer the Pietro Fiorentini FE Model Regulator (FE Model Regulator) for new installations and the relocation of existing meter sets in the “relatively infrequent” situations where it is impossible or impracticable to satisfy the three-foot clearance required by Puc 506.01(n). *Id.* at 1-2. According to Liberty, an FE Model Regulator has advanced structural and technological design components to make it safe in such applications. *Id.* at 2. Regarding costs, Liberty states that the FE Model Regulator sells for approximately \$106.80, compared to approximately \$17.51 for a standard gas regulator model, and installation costs are similar for both models. *Id.* at 3. Liberty maintains that the requested waiver would improve the reliability and safety of its system, would have no adverse impact on customers, and would not disrupt the orderly and efficient resolution of any matter currently before the Commission.

On November 2, 2018, the Commission’s Safety Division Staff (Staff) filed a recommendation for approval, with conditions, of Liberty’s petition. In recognition of the cost differential between regulator models, Staff recommended that installation of the FE Model

Regulator be limited to five percent of the total number of traditional regulators Liberty installs in a given year or, in the infrequent situation where that limit is exceeded, the total number of FE Model Regulator installations be limited to no more than 10 percent of the total number of services installed in the prior year, as reported on the federal form referenced in Puc 508.05(a)(2)(b).

Staff confirmed the Company's representations regarding the safety of the FE Model Regulator and recommended the approval of Liberty's requested waiver of Puc 506.01(n) with the following five conditions:

- (1) that the waiver apply only to the FE Model Regulator reviewed by Staff;
- (2) that Liberty be required to keep records of each location where the FE Model Regulator is installed, with such records maintained in an electronic database from which information is easily retrievable and based on which Liberty can easily identify the total number of regulators installed by town, with the exact location, unique service identifier, and date of installation for each regulator;
- (3) that Liberty should target the number of installations to no more than 5 percent of the total number of traditional regulators installed in a given year, and, for those unusual instances where the target is exceeded, the Company should be limited to installing within the current year a quantity that is no greater than 10 percent of the total number of services (both high pressure and low pressure) installed in the previous year as reported on the form referenced in Puc 508.05(a)(2)(b);
- (4) that the use of the FE Model Regulator be limited to above-ground installations and outside meter sets; and
- (5) that Liberty amend its construction, operations, and maintenance manual(s), as applicable, and ensure that all FE Model Regulator installation instructions are followed to meet the manufacturer's regulator specifications.

Staff also recommended that the Commission reserve the right to revoke the waiver if in subsequent years Staff finds that the Company has not adhered to those conditions.

## II. COMMISSION ANALYSIS

Under N.H. Code Admin. Rules Puc 201.05(a), the Commission may waive a rule if it finds that the waiver is in the public interest and that it will not disrupt the orderly and efficient resolution of matters before the Commission. In determining the public interest, we must waive a rule if (1) compliance with the rule would be onerous or inapplicable given the circumstances of the affected person, or (2) the purpose of the rule would be satisfied by an alternative method proposed. Puc 201.05(b). Our decision whether to waive Puc 506.01(n) is further informed by RSA 374:1, which requires every public utility to furnish such service and facilities as shall be reasonably safe and adequate and in all other respects just and reasonable.

We find reasonable the Company's effort to identify a gas regulator that can address the occasional circumstance in which the clearance distances required under Puc 506.01(n) cannot be met. As explained above, Puc 506.01(n) is a safety rule. To grant a waiver, we must be convinced that the purposes of the rule are satisfied by Liberty's proposed alternative. Here, the Company and Staff agree that the FE Model Regulator has advanced design features that make it a safe alternative even when it does not meet the clearance distance required under Puc 506.01(n).

In view of the higher cost of the FE Model Regulator relative to the standard regulator and Liberty's emphasis on the infrequent need for it, we find that a waiver may be warranted under limited circumstances. Because the justifications for a waiver are primarily customer-specific, such as customers' aesthetic concerns, equipment installed on customer buildings, large windows, deck designs, and customer landscaping, we are persuaded that a limited waiver for the infrequent instances when the FE Model Regulator is proposed is in the public interest, and should be approved subject to the conditions recommended by Staff.

Accordingly, we grant a limited waiver for the installation and use of the FE Model Regulator in circumstances where a clearance of less than three feet is warranted. Liberty shall maintain precise records for all such installations and costs occurring under the limited waiver. We also adopt the conditions proposed by Staff in its recommendation, as specified in the ordering paragraphs below. Finally, as pointed out by Staff, we retain the authority to revoke the limited waiver if Liberty does not adhere to the specified conditions.

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

**ORDERED**, that the request of Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities, for a waiver of Puc 506.01(n) is GRANTED; and it is

**FURTHER ORDERED**, that the waiver apply only to the Pietro Fiorentini FE Model Regulator reviewed by Commission Staff; and it is

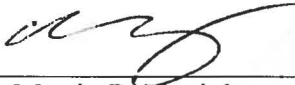
**FURTHER ORDERED**, that Liberty be required to keep records of each location where the FE Model Regulator is installed, with such records maintained in an electronic database from which information is easily retrievable and can be used to identify the total number of regulators installed by town, with the exact location, unique service identifier, and date of installation for each regulator; and it is

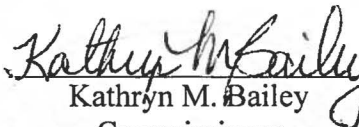
**FURTHER ORDERED**, that the number of FE Model Regulator installations shall not exceed five percent of the total number of traditional regulators installed by Liberty in a given year or, in the infrequent situation where that limit is exceeded, the total number of FE Model Regulator installations shall be limited to no more than 10 percent of the total number of services installed in the prior year, as reported on the federal form referenced in Puc 508.05(a)(2)(b); and it is

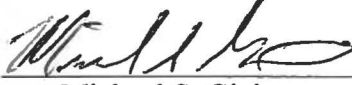
**FURTHER ORDERED**, that the use of the FE Model Regulator be limited to above-ground installations and outside meter sets; and it is

**FURTHER ORDERED**, that Liberty amend its construction, operations, and maintenance manual(s), as applicable, and ensure that all FE Model Regulator installation instructions are followed to meet the manufacturer's regulator specifications.

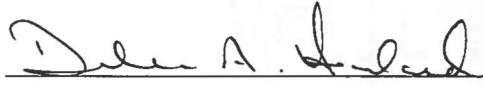
By order of the Public Utilities Commission of New Hampshire this twelfth day of December, 2018.

  
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Martin P. Honigberg  
Chairman

  
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Kathryn M. Bailey  
Commissioner

  
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Michael S. Giaimo  
Commissioner

Attested by:

  
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Debra A. Howland  
Executive Director