

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 21-036

**LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) d/b/a LIBERTY UTILITIES
Petition for Approval of a Renewable Natural Gas Supply and Transportation Agreement**

ORDER OF NOTICE

On March 4, 2021, Liberty Utilities (EnergyNorth Natural Gas) d/b/a Liberty (Liberty or the Company) filed a petition for approval of a proposed 17–year renewable natural gas (RNG) supply and transportation agreement with RUDARPA, North Country, LLC,(RUDARPA NC), for the purchase of all pipeline quality RNG produced from a Bethlehem landfill. Liberty proposes that RNG be compressed and delivered into Liberty’s distribution system and (or) transported to other locations, to be used in place of natural gas by distribution customers and by designated users under special contract.

Liberty also seeks approval to pursue a right of first refusal to purchase the RUDARPA NC RNG production facility outright following four years of RNG facility operation, subject to future Commission review prior to purchase. Liberty seeks Commission approval of the executed RNG agreement as reasonably safe, adequate, just and reasonable, in the public interest, and prudent, due to the “unique nature” of the RNG agreement, and because RNG is a new component in Liberty’s supply.

Liberty filed testimony, an executed contract, and a motion for confidential treatment in support of its petition. The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, will be posted to the Commission’s website at <https://www.puc.nh.gov/Regulatory/Docketbk/2021/21-036>.

The proposed RNG agreement calls for Liberty to pay set prices for the RNG so long as RUDARPA NC owns the treatment facility, and to pay a lower price if Liberty purchases the facility. The Company states that approximately 65 percent of the RNG would be served to Special Contract customers, with the remaining 35 percent to be injected into the EnergyNorth or Keene distribution systems. Until the RNG contract volumes are fully allocated, the Company proposes to include the balance of unsold RNG in the Company's overall cost of gas, subject to a cap of 5 percent of the Company's overall annual sendout. The Company states it is investigating an "opt-in" tariff for customers to purchase RNG at its contract price. Liberty claims that special contract customers' facilities are eligible for thermal renewable energy certificates (TRECs) generated by the use of RNG, and that distribution customers whose boilers or furnaces use RNG to heat their homes or businesses are similarly eligible for TRECs. Liberty anticipates "monetizing" the value of TRECs not otherwise owned by special contract customers, to reduce the Company's cost of gas.

The terms of the agreement with RUDARPA NC would permit Liberty to terminate the agreement without liability in the event that Liberty is unable to obtain Commission approval for the purchase of RNG, and after Liberty determines that no other commercially viable options for the purchase of RNG by Liberty or one of its affiliates or customers exists.

The filing raises, *inter alia*, issues related to whether the proposed RNG agreement is just and reasonable, and consistent with the public interest; whether it is prudent; whether any aspect of supply purchases should be subject to risk sharing or deferred incremental costs; whether Liberty's proposed contract for a right of first refusal to purchase the RNG production facility in four years, subject to future Commission review, is appropriate or should otherwise be subject to risk-sharing; whether Liberty or its distribution customers have facilities that are eligible to

produce TRECs using RNG as a fuel source; whether any Liberty customers are certified for TRECs; how production of useful thermal energy would be measured, and the potential value of any TRECs; whether the treatment of Renewable Identification Number (RIN) credits resulting from this contract are just and reasonable; and whether the Company's prefiled testimony supports the petition.

The filing also raises, *inter alia*, issues related to what physical locations may receive RNG, including potentially Concord, Tilton, Keene, West Lebanon, or different recipient points in New Hampshire, notwithstanding that Liberty does not currently have a West Lebanon franchise; whether any associated incremental increase in the cost of gas, (as compared to CNG or LNG or alternative sources) or the potential risk of purchasing the RNG production facility, should be allocated to all ratepayers; whether the addition of RNG is economically advantageous to ratepayers.

The above issues are related to RSA 374:1, RSA 374:2 and RSA 378:7 (public utilities to provide safe and adequate service at "just and reasonable" rates); RSA 374:3 (Commissioner's general supervision over utilities); RSA 374:4 (Commission's duty to keep informed of the manner in which all public utilities in the state provide for safe and adequate service); RSA 374:5 (requirement that utilities provide advance notice of plans for substantial capital improvements and Commission's authority to investigate and approve such plans); RSA 374:4 (Commission duty to keep informed as to all public utilities capitalization, franchises, and the manner in which managed and operated); RSA 378:7 (rates collected by a public utility for services rendered must be just and reasonable); RSA 378:28 (whether entry into the long-term agreement is prudent and in the public interest); RSA Chapter 370 (whether Liberty's plans and specifications for the use of RNG meet appropriate supply quality and operating safety

standards); RSA 362-F and N.H. Admin. R. Puc Chapter 2500 (TREC's); and RSA 374:22, I (expiration of franchise). Each party has the right to have an attorney represent the party at the party's own expense.

With the expiration of the declared State of Emergency, the Commission must now comply with all requirements of RSA chapter 91-A, including the requirement that a quorum of a public body must be physically present at the location specified as the location of the public meeting in the meeting notice. The Commission is aware that not all parties, including regulated utilities, have returned to full in-person work environments. Therefore, for the foreseeable future, the Commission intends to provide a hybrid approach to hearings to accommodate those who are remote and those who are physically present. A quorum of commissioners will be physically present within a hearing room for all Commission hearings beginning June 14, 2021. In order to facilitate the hybrid approach, all parties participating in the hearing room will continue to participate on the web-enabled platform. Parties and the public may continue to participate in hearings remotely using the Commission's web-enabled platform.

Based upon the foregoing, it is hereby

ORDERED, that the Commission will hold a prehearing conference, pursuant to N.H. Admin. R., Puc 203.15, at its offices located at 21 S. Fruit St., Suite 10, Concord, New Hampshire, on Monday, July 12, 2021, at 10:00 a.m., at which each party will provide a preliminary statement of its position with regard to the petition and any of the issues set forth in N.H. Admin. R., Puc 203.15. Commissioners will be present in the hearing room and will use a web-enabled platform to conduct the hearing. Members of the public who wish to access the prehearing conference may do so [by clicking here](#). **If you have any difficulty obtaining access to this remote event, please notify the Commission by calling (603) 271-2431 as soon as**

possible. Parties and members of the public wishing to attend the hearing in person are encouraged to register in advance, on or before July 8, 2021, by calling (603) 271-2431. Parties will be provided with additional instructions prior to the prehearing conference; and it is

FURTHER ORDERED, that, immediately following the prehearing conference, Liberty, the Staff of the Commission, the Staff of the Office of the Consumer Advocate (OCA) and any intervenors hold a web-enabled remote technical session to review the filing; and it is

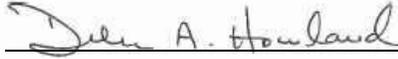
FURTHER ORDERED, that pursuant to N.H. Admin. R., Puc 203.12, Liberty shall notify all persons desiring to be heard at this hearing by publishing a copy of this order of notice on its website no later than one business day after the date of issue. Publication shall be documented by affidavit filed with the Commission on or before July 8, 2021. In addition, the Executive Director shall publish this order of notice on the Commission's website no later than one business day after the date of issuance; and it is

FURTHER ORDERED, that consistent with N.H. Admin. R. Puc 203.17 and Puc 203.02, any party seeking to intervene in the proceeding shall submit to the Commission seven copies of a petition to intervene with copies sent to Liberty and the Office of the Consumer Advocate on or before July 8, 2021, such petition stating the facts demonstrating how its rights, duties, privileges, immunities, or other substantial interests may be affected by the proceeding, consistent with N.H. Admin. R., Puc 203.17 and RSA 541-A:32. Pursuant to secretarial letter issued on March 17, 2020, which is posted on the Commission's website at

<https://www.puc.nh.gov/Regulatory/Secretarial%20Letters/20200317-SecLtr-Temp-Changes-in-Filing-Requirements.pdf> any party seeking to intervene may elect to submit this filing in electronic form; and it is

FURTHER ORDERED, that any party objecting to a petition to intervene make said objection on or before the hearing scheduled for July 12, 2021 (submitted in electronic form).

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of June 2021.



Debra A. Howland
Executive Director

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability should contact the Americans with Disabilities Act Coordinator, NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.

Service List - Docket Related

Docket#: 21-036

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