

THE STATE OF NEW HAMPSHIRE

BEFORE THE

PUBLIC UTILITIES COMMISSION

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

Docket No. DG 14-180

MOTION FOR PROTECTIVE ORDER AND CONFIDENTIAL TREATMENT REGARDING LIBERTY CONSULTING GROUP FINAL REPORT AND LIBERTY UTILITIES' RESPONSE

Liberty Utilities (EnergyNorth Natural Gas) Corp. and Liberty Utilities (Granite State Electric) Corp.¹ both d/b/a Liberty Utilities (the “Companies”) hereby move the New Hampshire Public Utilities Commission (the “Commission”) to grant protective treatment to confidential information contained in the Final Report on A Management and Operations Audit of The Customer Service and Accounting Functions of Liberty Utilities issued on August 12, 2016 (the “LCG Report”) as well as in Liberty Utilities’ response to the same. In support of this motion, Liberty Utilities states as follows:

1. On August 15, 2016, Commission Staff filed The Liberty Consulting Group’s (“LCG”) Final Report on A Management and Operations Audit of The Customer Service and Accounting Functions of Liberty Utilities in confidential and redacted form. On August 24, 2016, the Companies filed a Response to Liberty Consulting Group Final Report (“Response to LCG Report”). The confidential version of the LCG Report contains observations by LCG regarding Liberty Utilities’ Contact Centers and IT system structure that if released to the public,

¹ Liberty Utilities (Granite State Electric) Corp. was also the subject of the audit and thus joins in this request for confidential treatment.

could jeopardize the Companies' security interests. The Response to LCG Report also contains similar information regarding Liberty Utilities' Contact Centers that if released could jeopardize the Companies' security interests. In addition, the LCG Report contains information about Liberty Utilities' projected financial performance which is information that the Companies do not make public and in which it has a reasonable expectation of privacy.

2. RSA 91-A:5,IV exempts from public disclosure records that constitute confidential, commercial, or financial information, and other files whose disclosure would constitute an invasion of privacy. Based on *Lambert v. Belknap County Convention*, 157 N.H. 375 (2008), the Commission applies a three-step analysis to determine whether information should be protected from public disclosure. *See, e.g. Public Service Company of New Hampshire*, Order No. 25,313 at 11-12 (December 30, 2011). The first step is to determine if there is a privacy interest at stake that would be invaded by the disclosure. If such an interest is at stake, the second step is to determine if there is a public interest in disclosure. The Commission has held that disclosure that informs the public of the conduct and activities of its government is in the public interest; otherwise, public disclosure is not warranted. *Public Service Company of New Hampshire*, Order 25,167 at 3 (November 9, 2010). If both of these steps are met, the Commission balances those interests in order to weigh the importance of keeping the record public with the harm from disclosure of the material for which protection is requested. *Id.* at 3-4.

Contact Center and IT Structure Information

3. The Customer Service and Accounting sections of the LCG Final Report and the Response to LCG Report contain information about certain aspects of Liberty Utilities' Contact Centers, and the LCG Final Report also contains information on the characteristics of

information technology systems that pose potential security issues if released to the public. This information, which appears on pages II-16, II-21, II-37, and pages 1 and 2 of the Response to LCG Report provides details about cash handling practices, and page V-9 of the LCG Report provides the structure of certain information technology systems that are not in the public domain. If this information were released to the public, it might enable a malicious person to compromise either physical security or gain unauthorized access to Liberty Utilities' systems and data.

4. Applying the required *Lambert* analysis, the first inquiry is whether there is a privacy interest in this information. Liberty Utilities (on behalf of its employees and customers) has an obligation to maintain as confidential information about its processes and systems that could implicate physical and information technology security concerns. There is no public interest in disclosure of this information as its release would not lend any insight into the workings of government as it relates to this case. Even if one were to theoretically identify a public interest in disclosure of the information, the harm that could occur as a result of that disclosure is well outweighed by the privacy interests at stake. The Commission has recognized the need to protect similar information in the past, *see In re National Grid USA*, Order No. 25,400 in DG 11-040 (August 21, 2012)(protecting against disclosure Liberty Utilities' information technology security assessment).

Financial Projections

5. Pages III-8 and III-9 of the LCG Final Report contain operating expense forecasts and projected earnings for the Companies on a combined basis for the years 2016-2020. Liberty Utilities provided this information to LCG in response to an audit request, and LCG has replicated that information in its Final Report. Liberty Utilities is seeking confidential treatment

of this information because it is information that the Companies do not make public, and provides insight into how the company manages certain financial targets of its performance. In addition, the Companies provided the information to LCG with the understanding that LCG would maintain the information confidentially given its non-disclosure agreement with the Companies. Applying the *Lambert* test, the Companies have a reasonable expectation of privacy in the information because it reflects the Companies' projected path of future financial performance, and could reveal internal business decisions. The Commission has protected a utility's financial projections in other cases, *see e.g. In Re Joint Petition of the City of Nashua*, Order No. 25,292 dated November 23, 2011 (Docket DW 11-026); *In Re Northern Utilities, Inc.*, Order No. 25, 289 dated November 18, 2011 (Docket DG 11-208)(holding that "Disclosure of the financial information for which protection is sought by Northern would reveal internal business decisions and financial information, could harm Northern, and could result in a competitive disadvantage to Northern. As such, disclosure would invade the privacy interests of Northern, and could damage competitive positions, potentially to the detriment of ratepayers. Further, there is no indication that disclosure of the information would inform the public about the workings of the Commission).

6. The Commission should apply the same analysis here. The financial projections do not provide any insight into the workings of government as it relates to this case and thus there is no public interest in the information. Rather, the information provides insight into the Companies' view of the future financial performance of their business based on certain assumptions. While historic financial information about public utilities is often made public through rate proceedings, information about projected financial performance is not. Liberty Utilities' privacy interest in this information is significant, and should be maintained.

7. For the above-stated reasons, the Companies request that the Commission find that the requested information meets the criteria for protection from disclosure, and accord it confidential treatment.

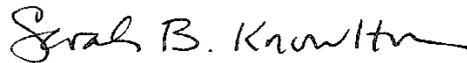
WHEREFORE, the Companies respectfully request that the Commission:

- A. Grant this Motion for Protective Order and Confidential Treatment; and
- B. Grant such other relief as is just and equitable.

Respectfully submitted,

LIBERTY UTILITIES (ENERGYNORTH NATURAL
GAS) CORP.
LIBERTY UTILITIES (GRANITE STATE ELECTRIC)
CORP. BOTH D/B/A LIBERTY UTILITIES

By its Attorney,

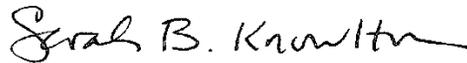


Date: August 24, 2016

By: _____
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Certificate of Service

I hereby certify that on August 24, 2016, a copy of this Motion has been forwarded to the service list in DG 14-180.



Sarah B. Knowlton