

**ORIGINAL**

STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION

February 13, 2015 - 9:04 a.m.  
Concord, New Hampshire

**RE:DG 14-380 LIBERTY UTILITIES (ENERGYNORTH  
NATURAL GAS) CORP., D/B/A LIBERTY UTILITIES  
Petition for Approval of a Firm Transportation  
Agreement with the Tennessee Gas Pipeline Company,  
LLC - PREHEARING CONFERENCE**

**PRESENT:** Alexander F. Speidel, Hearing Examiner  
Sandy Deno - Clerk

**APPEARANCES:**

**Reptg. Liberty Utilities, et al:**  
Sarah B. Knowlton, Esq.

**Reptg. Town of Dracut:**  
James P. Hall, Esq. (Qua, Hall, Harvey & Walsh)

**Reptg. PLAN:**  
Richard A. Kanoff, Esq. (Burns & Levinson, LLP)

**Reptg. Staff:**  
Rorie E. Patterson, Esq.

**COURT REPORTER: SUSAN J. ROBIDAS, N.H. LCR NO. 44**

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HRG. EXAMINER SPEIDEL: I'm Attorney Speidel, the hearings examiner for this matter, and I greet you all today. I would like to open this hearing, specifically this prehearing conference in DG 14-380, which is the Liberty Utilities filing for approval of a long-term firm transportation gas agreement. I would like to begin by taking appearances first, please.

MS. KNOWLTON: Good morning, Attorney Speidel. My name is Sarah Knowlton. I'm here today on behalf of Liberty Utilities and EnergyNorth Natural Gas Corp.

HRG. EXAMINER SPEIDEL: Thank you.

MR. HALL: Attorney James Hall for the Town of Dracut. We filed a petition to intervene.

HRG. EXAMINER SPEIDEL: And feel free to just remain seated so you have better access to the microphone.

MR. KANOFF: Richard Kanoff, representing PLAN, appearing on behalf of

1 PLAN.

2 HRG. EXAMINER SPEIDEL: Thank  
3 you.

4 MS. PATTERSON: Good morning,  
5 Attorney Speidel. Rorie Patterson and Steve  
6 Frink here on behalf of the Public Utilities  
7 Commission.

8 HRG. EXAMINER SPEIDEL: I do  
9 see that we have some other parties monitoring  
10 the proceeding. I imagine that some of them  
11 are Liberty personnel, some of them are not  
12 Liberty personnel. I would like to invite the  
13 Staff attorney to perhaps circulate a sign-up  
14 sheet so that everyone in the room can mark  
15 down who they are. And they should indicate  
16 as to whether they are the petitioner, an  
17 intervenor or an interested party. Thank you.

18 I understand from having read  
19 the record that we have two motions to  
20 intervene and that there are objections from  
21 the Company for both. Is that right, Ms.  
22 Knowlton?

23 MS. KNOWLTON: That's correct.

24 HRG. EXAMINER SPEIDEL: Would

1       you prefer to begin by making a statement of  
2       objection, or would you rather that the  
3       intervenors make their own statement and their  
4       position first?

5                   MS. KNOWLTON: I'd rather have  
6       the intervenor go first, the proposed  
7       intervenor, and then I'm happy to articulate  
8       the objection.

9                   HRG. EXAMINER SPEIDEL: Very  
10      well. I suppose we could begin with the Town  
11      of Dracut.

12                  Sir, would you like to make a  
13      statement in support of your intervention  
14      request?

15                  MR. HALL: Yes, sir. As  
16      detailed in the -- we provided more detail in  
17      our supplement in regards to the interest  
18      Dracut has and the public interest at large.  
19      But our belief, and while there are some  
20      things redacted in the filings, is the current  
21      pathway majorly impacts Dracut. Additionally,  
22      there are two proposed alternative pathways,  
23      with a major compression system in Dracut and  
24      expanded pipelines. And the citizens of

1        Dracut are concerned about additional takings  
2        and environmental impacts. And, again, if the  
3        alternative pathways are also, as proposed,  
4        established, those also utilize Dracut. For  
5        all those reasons and those cited in the  
6        pleadings, we believe Dracut does have a  
7        substantial interest.

8                                And additionally, there is a  
9        great public interest in having its citizens  
10       involved and its board of selectmen. We  
11       believe this is very important, and we  
12       request that we be given the right to be a  
13       full intervenor. And Dracut is still  
14       assessing what level of participation it  
15       would ultimately want, but it would like to  
16       be granted full intervenor status. Thank  
17       you.

18                              HRG. EXAMINER SPEIDEL: Now, is  
19       it fair to say that Dracut is not part of the  
20       Liberty Utilities New Hampshire franchise  
21       footprint? It's in Mass.

22                              MR. HALL: That's correct.

23                              HRG. EXAMINER SPEIDEL: So you  
24       have another gas company I presume there.

1           Would you happen to know what it is?

2                       MR. HALL: I do not at this  
3           time.

4                       HRG. EXAMINER SPEIDEL: But  
5           there's another service territory across the  
6           Massachusetts border.

7                       My other follow-up question to  
8           that would be: Is it fair to say that your  
9           hometown gas company is probably involved in  
10          some level of involvement in the NED  
11          expansion project?

12                      MR. HALL: I think it's fair to  
13          say yes. I can't really speak on authority on  
14          that. Unfortunately, I think the selectmen  
15          received some notice that was probably ordered  
16          to be published and just on Tuesday night  
17          voted to petition to intervene. So I'm  
18          somewhat handicapped by lack of information at  
19          this time, which I apologize for.

20                      HRG. EXAMINER SPEIDEL: Well,  
21          what I'm driving at is the Town of Dracut's  
22          nexus to New Hampshire affairs, in terms of  
23          this specific filing, seem to revolve around  
24          its role as a host for physical infrastructure

1       that does not necessarily depend on a New  
2       Hampshire process for approval for review, for  
3       siting and so forth. We don't have any  
4       jurisdiction over the siting of those  
5       infrastructure elements. And on top of that,  
6       there is, I'm sure, a responsible  
7       Massachusetts agency or an agency that's going  
8       to be involved in the review of that physical  
9       siting. On top of that, you also have a  
10      hometown gas company that is directly sited in  
11      your community and also very much -- there's a  
12      distinct likelihood that the Town of Dracut is  
13      at least a distribution customer of the gas  
14      utility, if not a supply customer as well.  
15      So, there you have an iron-clad nexus, in  
16      terms of your role in New Hampshire law under  
17      the Part I mandatory intervention standard in  
18      a Massachusetts proceeding, but not  
19      necessarily in a New Hampshire proceeding.  
20      And I would actually state categorically not  
21      in New Hampshire proceeding under Part I.

22                       Now, under Part II, you say  
23      there are certainly interests that militate  
24      in favor of your town's participation in this



1 proceeding. Could you describe those a  
2 little bit more specifically, please.

3 MR. HALL: The major interests,  
4 from what I --

5 (Court Reporter interrupts.)

6 MR. HALL: What we believe are  
7 our interest right now is, should this be  
8 approved, ultimately the burden on Dracut will  
9 be much larger because there will be an  
10 expansion. It certainly benefits Dracut and  
11 the public to be able to get a lot of these  
12 facts or allegations or plans or systems which  
13 potentially are going to impact Dracut. And  
14 additionally, I think it would also benefit  
15 the companies, too, because there's going to  
16 be more hysteria and uncertainty amongst the  
17 people if the information is not out publicly  
18 for them to assess.

19 And yes, while we're in  
20 Massachusetts and we have redress there over  
21 certain things should this go through, I  
22 think it would benefit the process and the  
23 public interest for Dracut to receive and  
24 participate at this stage in New Hampshire,

1 even though we are a Massachusetts municipal  
2 entity.

3 HRG. EXAMINER SPEIDEL: So you  
4 believe that there are interests implicated  
5 that would not be adequately protected through  
6 a review of the public docket record that is  
7 supplied to any interested member of the  
8 public through our Web site, for instance.  
9 And you are not satisfied that your  
10 participation in a Massachusetts DPU  
11 proceeding, for instance, for your area's  
12 utility's involvement in the NED project, or  
13 local siting affairs, or Massachusetts court  
14 proceedings regarding siting in the Town of  
15 Dracut, you believe that all those elements  
16 together would not adequately protect the  
17 interests of the Town of Dracut?

18 MR. HALL: Yes, sir. The  
19 selectmen believe that because, basically, a  
20 number of citizens petitioned them and  
21 basically revealed that they couldn't get  
22 certain plans or ideas because they were  
23 redacted. And that was one of the major  
24 things that led the selectmen to vote to

1 petition to intervene.

2 HRG. EXAMINER SPEIDEL: So you  
3 would expect that having access to unredacted  
4 documents would be helpful to the Town of  
5 Dracut. Now, in light of that interest, have  
6 you engaged in any discussions with the  
7 Liberty company about a non-disclosure  
8 agreement regarding such confidential  
9 materials?

10 MR. HALL: No, I haven't, sir.

11 HRG. EXAMINER SPEIDEL: Because  
12 under our law in New Hampshire, it would be  
13 required that if the Company were to share  
14 what they view to be confidential business  
15 information or commercially sensitive  
16 information, it would be most likely that the  
17 Town of Dracut would be required to enter into  
18 a non-disclosure agreement with the Company  
19 about that. So I do want to caution that,  
20 even if the Town of Dracut were to achieve the  
21 status of a full intervenor, they would have  
22 access to confidential documents only subject  
23 to the Company's right to extend a binding  
24 non-disclosure agreement. And so you

1 understand the implications of that, I  
2 believe?

3 MR. HALL: I do, sir, yes.

4 HRG. EXAMINER SPEIDEL: Okay.  
5 So do you have any amendments you'd like to  
6 make to your position in light of that fact,  
7 or would you require further discussion with  
8 the folks down in Dracut?

9 MR. HALL: No, sir. I think  
10 I'd think just like to emphasize that the  
11 selectmen do understand that they would have a  
12 burden of confidentiality, but I think at  
13 least they would be able to inform the public,  
14 who is very worried about this proceeding and  
15 others, that they've had the opportunity to  
16 discuss it and hear about it. And I think  
17 that would benefit the public, knowing that  
18 their governing body was informed. That's the  
19 main, I guess, thrust of why they sent me up  
20 here.

21 HRG. EXAMINER SPEIDEL: Good.  
22 Well, thank you for your time, and thank you  
23 for your explanations.

24 I would like to invite Ms.

1 Knowlton to present the Company's response to  
2 these discussions.

3 MS. KNOWLTON: Thank you. The  
4 Company does not dispute the importance of  
5 Dracut as a location of a city gate for  
6 natural gas delivery. But that said, the  
7 Company does object to the Town of Dracut's  
8 petition to intervene in this docket. This  
9 docket involves the consideration of a  
10 financial transaction that the Company seeks  
11 to enter into, and that is to purchase firm  
12 capacity from Tennessee Gas Pipeline Company,  
13 LLC, over a 20-year term.

14 As the attorney for the Town  
15 of Dracut outlined, his citizenry is  
16 concerned about takings and alternative  
17 impacts associated with the construction of a  
18 natural gas pipeline. Those sound like  
19 environmental impacts to me and concerns of  
20 landowners with regard to taking issues  
21 presumably under some eminent domain statute  
22 not here in New Hampshire, obviously, because  
23 our courts would not have jurisdiction over  
24 land in the Commonwealth of Massachusetts.

1 Those are not issues that are before the  
2 Commission in this proceeding. Those issues,  
3 in terms of the siting of the natural gas  
4 pipeline and any environmental impacts of  
5 that pipeline, will be considered by the  
6 Federal Energy Regulatory Commission, you  
7 know, and possibly a state siting agency in  
8 Massachusetts. But, you know, I'm not  
9 familiar with myself, in terms of, you know,  
10 whether a state agency in Massachusetts is  
11 even preempted by the FERC to consider those  
12 issues.

13 So, while I recognize that the  
14 people of Dracut may have those issues and  
15 want to explore them, this is not the docket  
16 to pursue that because, again, this docket  
17 doesn't involve Massachusetts. It's a New  
18 Hampshire-focused docket, and it's focused  
19 solely on the financial transaction that the  
20 Company seeks to enter into.

21 On the same day the Company  
22 filed its petition seeking approval to enter  
23 into an agreement with Tennessee, it  
24 submitted a motion for protective agreement

1 in which it outlined the types of information  
2 that were redacted from the Company's filing.  
3 And it's financial information, again,  
4 relating to the terms of the proposed  
5 transaction with Tennessee, you know, various  
6 costs and other commercial terms. And those  
7 are not the -- it doesn't even go to the  
8 nature of the interests that Dracut has  
9 identified as wanting to pursue in this  
10 docket. Again, their interests appear to be  
11 takings and alternative impacts. So I think  
12 they're in the wrong venue, and for that  
13 reason I would ask that the Commission deny  
14 the petition to intervene.

15 I also am concerned about the  
16 timing of this docket. As we've outlined in  
17 our petition, there are some time constraints  
18 here for the Company to receive approval in  
19 order to proceed with the contract with  
20 Tennessee. We're looking for a final  
21 order -- meaning, the appeal period has run  
22 by July 1st, 2015. And if we are in a  
23 situation where we have intervenors that are  
24 going to deviate into issues that are outside

1 the scope, noticed scope of the docket, I am  
2 concerned that that will also have a negative  
3 impact on the timing requirements that the  
4 Company has. So I would ask that that be  
5 taken into consideration as well as the  
6 Commission considers the Dracut petition to  
7 intervene. Thank you.

8 HRG. EXAMINER SPEIDEL: If I  
9 may, Ms. Knowlton, I'd like to ask a follow-up  
10 question regarding one of the authorities that  
11 you cited in your brief of objection to the  
12 Dracut filing, and that related to the camp  
13 association in Maine in 2002 on Aziscoos Lake,  
14 I believe roughly in the area of Effingham,  
15 New Hampshire, or thereabouts. Ultimately in  
16 that case, the Commission ruled that the camp  
17 association had no describable interests that  
18 was impacted by the Seabrook construction; is  
19 that right?

20 MS. KNOWLTON: That's correct.

21 HRG. EXAMINER SPEIDEL: Now, in  
22 this instance, the Town of Dracut is the host  
23 town for some of the physical infrastructure  
24 affiliated with the pipeline for which the



1       Company is contracting. Would you be able to  
2       maintain that Dracut, in fact, does not have  
3       any interest in this proceeding that could be  
4       served by their participation in this  
5       proceeding on that basis?

6                   MS. KNOWLTON: I don't think  
7       so. I mean, I think if one were to adopt the  
8       view that Dracut did have some interest that  
9       would be affected, I mean, the natural gas  
10      pipeline extends -- you know, actually, many  
11      pipelines that this company obtains capacity  
12      on, I mean, we have states, you know, down to  
13      the Gulf area that would be intervening in our  
14      docket. I mean, there's gas pipelines, as I  
15      think Mr. DaFonte's testimony has outlined in  
16      the Company's Least Cost Integrated Resource  
17      Plan, DG 13-313, has extensive information  
18      about all the different gas pipelines that we  
19      have agreements with for firm capacity. And  
20      those pipelines span, you know, from Dracut,  
21      Massachusetts, all the way down to the Gulf  
22      Coast. And I think if we were to take the  
23      view that there's assets in Dracut or any of  
24      these other gas pipeline locations that are

1           necessary to serve our customers, I mean, we  
2           could have, you know, a very substantial  
3           number of parties show up and intervene in our  
4           dockets. And I certainly don't think that  
5           that would be in the interest of this  
6           commission, or necessary.

7                        HRG. EXAMINER SPEIDEL: Thank  
8           you. I appreciate that.

9                        I don't see that we have a  
10          representative of the Office of Consumer  
11          Advocate here. Does Staff have any  
12          viewpoints regarding this specific petition  
13          to intervene?

14                       MS. PATTERSON: Thank you.  
15          Staff is not satisfied that Dracut has  
16          satisfied the requirement to demonstrate  
17          rights, privileges, duties or other types of  
18          interests that would require the Commission to  
19          grant intervention. And we agree that this is  
20          not the appropriate venue for Dracut's  
21          arguments to occur within, that that argument  
22          is more -- is best addressed at the FERC  
23          proceeding.

24                       And we would also say that, as

1 far as discretionary participation goes,  
2 Staff views the expedited schedule as fairly  
3 important and not something that could be  
4 necessarily accomplished if we allow people  
5 who don't have direct interests in the  
6 outcome of this case to participate. So we  
7 would ask that the Staff -- or that the  
8 Commission deny the petition.

9 HRG. EXAMINER SPEIDEL: Thank  
10 you.

11 In light of this information,  
12 and on the basis of the record that has been  
13 presented, I will enter in an order of denial  
14 of the intervention by Dracut. I will  
15 mention that in my hearings examiner report  
16 because, for starters, I do not see any basis  
17 under Part I. And under Part II, Dracut  
18 really does have better venues for its  
19 interests and its participation. I think a  
20 Massachusetts DPU filing by one of the  
21 Massachusetts utilities, especially its very  
22 own in its own service territory, would be an  
23 excellent place for the Town of Dracut to hop  
24 aboard and do what it needs to do to protect

1       its interests. But the New Hampshire Public  
2       Utilities Commission does not have any  
3       jurisdiction over Massachusetts siting law or  
4       Massachusetts review of gas acquisition  
5       contracting. So I will deny the motion to  
6       intervene in my report, which will be issued  
7       very shortly.

8               Now I would like to begin discussion of  
9       the second intervenor, the PLAN entity.

10              Just like last time, Ms. Knowlton, would  
11      you like to begin, or should PLAN begin its  
12      presentation?

13                      MS. KNOWLTON: If we could  
14      proceed in the same manner with PLAN  
15      beginning?

16                      HRG. EXAMINER SPEIDEL: Very  
17      good.

18                      Sir, could you state the  
19      position of PLAN for its request for  
20      intervention in this proceeding.

21                      MR. KANOFF: Is the microphone  
22      on?

23                      HRG. EXAMINER SPEIDEL: I don't  
24      know. The red light should be on. You press

1 the little silver button --

2 MR. KANOFF: It's on.

3 HRG. EXAMINER SPEIDEL: Okay.

4 Great.

5 MR. KANOFF: Thank you. I  
6 appreciate the opportunity to appear here on  
7 behalf of PLAN. The Pipeline Awareness  
8 Network for the Northeast is a new entity  
9 formed in response primarily to the new filing  
10 and the new reality that in New Hampshire the  
11 NED pipeline is now officially routed. And  
12 the specific impacts on PLAN and on its  
13 members are noted explicitly in our petition  
14 to intervene. And I don't need to go into  
15 that.

16 What I do want to say is that  
17 PLAN and its members have specific impacts  
18 and specific nexus to this proceeding, in the  
19 fact that it has members that are ratepayers,  
20 it has members that are affected by the route  
21 that the pipeline is going to take, and its  
22 intervention is legally supported in the same  
23 manner as other organizations have  
24 historically been received and evaluated in

1 the Commission, and all the precedence for  
2 that, and in fact support that, are in our  
3 petition to intervene.

4 If we're allowed to intervene,  
5 we plan to evaluate as part of the procedural  
6 schedule here, and consistent with the  
7 schedule here, the choice that the Company  
8 made with respect to this particular pipeline  
9 and gas supply opportunity versus other  
10 pipelines and gas supply opportunities as  
11 noted in its submittal. It had a choice and  
12 made a choice, and they characterize that  
13 choice primarily as "financial." But we all  
14 know from its filing that there are costs  
15 financial and non-cost elements associated  
16 with its selection. And all of those should  
17 be appropriately considered and evaluated by  
18 the Commission, consistent with very broad  
19 standard public interests. And the public  
20 interest doesn't necessarily define this  
21 proceeding to just the financial, quote,  
22 implications of the contract, but it's a much  
23 more broader standard that allows, even in  
24 the Company's submittal, to encompass

1 non-cost factors. They've identified some of  
2 those. There may be others. But certainly,  
3 even on a specific cost basis, the Company's  
4 need for this particular contract, its choice  
5 to select this one versus others, and its  
6 decision and evaluation of cost and non-cost  
7 factors is something that PLAN very much  
8 believes it has a right to participate in.  
9 There were -- consistent with precedent, we  
10 have filed, and it didn't show up on the Web  
11 site at the time that the information was  
12 available yesterday, given the storm, but  
13 PLAN has certainly filed with the secretary  
14 of state's office in New Hampshire  
15 appropriate paperwork for it to qualify as a  
16 foreign non-profit corporation, that if it's  
17 not on the Web site now, it should be. This  
18 was filed, with the storm-related impacts,  
19 earlier in the week. And I can certainly  
20 present that documentation.

21 So, having said that, we would  
22 appreciate the opportunity to intervene  
23 consistent with the precedent, and given the  
24 importance of the issues to PLAN and its

1 membership in New Hampshire.

2 HRG. EXAMINER SPEIDEL: Thank  
3 you.

4 I would like to invite Ms.  
5 Knowlton to give the Company's response to  
6 that statement.

7 MS. KNOWLTON: Thank you. The  
8 Company continues to iterate its objection to  
9 the PLAN's petition to intervene. As stated  
10 in our objection, PLAN makes a bald-face  
11 assertion that it has members who are  
12 customers of ours here in New Hampshire.  
13 There is no support behind that statement.  
14 There is no affidavit. There is not even a  
15 number of members that they have that are our  
16 customers. We don't know whether they're  
17 residential customers, whether they're  
18 commercial and industrial customers.

19 I think if the hearing officer  
20 were to go and to look into the Commission  
21 orders from prior cases where intervenors  
22 have -- membership organizations have sought  
23 to intervene in other dockets, you know, one  
24 would see that the Commission has typically



1 required something more than just a statement  
2 that, "We have members that are affected."  
3 In some cases, organizations have provided  
4 affidavits making that connection between  
5 membership in an organization and receipt of  
6 services of a customer from a distribution  
7 utility. And we don't have any of that here,  
8 so there is no way for me to evaluate that  
9 assertion. And I am concerned that, you  
10 know, we don't have enough to evaluate  
11 whether or not, in fact, some of the PLAN  
12 members are our customers in our service  
13 territory. So I have a concern about that.

14 PLAN also seeks to intervene  
15 to address concerns with regard to land-  
16 taking-related issues. And I would -- as I  
17 stated in my objection to the Town of  
18 Dracut's intervention, this is not the venue  
19 for that. The Commission does not have  
20 authority to consider taking issues. That's  
21 an issue, again, that is a FERC issue, and  
22 possibly a siting issue here in New  
23 Hampshire. But that's not what this  
24 commission has jurisdiction to do. And I

1 don't believe that will be the focus of this  
2 docket. So, on that basis as well, I don't  
3 think that PLAN should be permitted to  
4 intervene.

5 If the Commission were going  
6 to grant intervention to PLAN, alternatively  
7 I would ask that it only be on a limited  
8 basis, consistent with RSA 541-A:32, III,  
9 that it be limited to a designated issue.  
10 And Attorney Kanoff has indicated that the  
11 only issue that they seek to pursue is the  
12 choice, the supply choice issue.

13 And I also am -- again, if we  
14 had clarity about who their members are  
15 relative to service by EnergyNorth, the  
16 utility here, if the residential customers  
17 that they're claiming to represent, that they  
18 be required to coordinate their position with  
19 the Office of Consumer Advocate so that we  
20 have some efficiency around the presentation  
21 of evidence and argument in the case and  
22 discovery. While I know that the consumer  
23 advocate is not here today, the OCA did file  
24 a letter of participation in this docket. So

1 I do believe that such a coordination would  
2 be possible.

3 So, with that I'll close.

4 Again, we don't believe that PLAN has stated  
5 a basis to intervene, and we object to the  
6 intervention. But again, alternatively, if  
7 the intervention is going to be granted, I  
8 would request that it be done so on a limited  
9 basis only.

10 HRG. EXAMINER SPEIDEL: Thank  
11 you, Ms. Knowlton.

12 Ms. Patterson, do you have  
13 anything to add to that as Staff?

14 MS. PATTERSON: Thank you.  
15 Yes. Like its position with regard to Dracut,  
16 Staff takes the position that there is not  
17 sufficient demonstration by this party to show  
18 that it has rights, duties, privileges,  
19 immunities or other substantial interests that  
20 may be affected by the Commission's decision  
21 in this proceeding. I agree that in the past,  
22 the Commission has received affidavits  
23 attached to petitions to intervene filed on  
24 behalf of membership groups. To the extent

1       that that is something that PLAN is able to  
2       provide, it's possible that Staff would have a  
3       different position. But at this point, we  
4       don't have sufficient information to make a  
5       recommendation to the Commission. Thank you.

6                   HRG. EXAMINER SPEIDEL: Thank  
7       you.

8                   It would appear that we have a  
9       question of fact outstanding regarding PLAN's  
10      membership. And I would concur with Staff  
11      and the Company that the proper remedy for  
12      this situation is a record request requesting  
13      that PLAN proffer an affidavit certifying  
14      that it does indeed have members that are  
15      residents and customers of Liberty in its  
16      service territory. That would be most  
17      helpful, I believe, to clarifying this  
18      situation.

19                  So I would like to ask the  
20      clerk to enter in Record Request No. 1 from  
21      PLAN regarding an affidavit for its  
22      membership, and on the basis of receipt of  
23      that, I will follow-up with a recommendation  
24      regarding its intervention status. When the

1 affidavit is received by the parties, I  
2 invite all of the parties also to enter their  
3 own responses to the affidavit and their  
4 positions regarding intervention. And I  
5 address that to the Company and Staff  
6 specifically. That would be most helpful.  
7 So that would be Record Request 2, Staff and  
8 the Company's response to PLAN'S affidavit.

9 In the meantime, sir, I would  
10 recommend that, if you do wish to  
11 participate -- is there a technical session  
12 at the end of this proceeding?

13 MS. PATTERSON: Yes.

14 HRG. EXAMINER SPEIDEL: Is  
15 there an expectation that there would be any  
16 objection to PLAN's participation as, shall we  
17 say, an observer of the technical session  
18 versus an active participant?

19 MS. KNOWLTON: No, we have no  
20 objection, again, I mean, so long as  
21 confidential information is not being  
22 discussed. We will ask them to leave the room  
23 if we discuss confidential terms.

24 HRG. EXAMINER SPEIDEL: Right.

1 MS. KNOWLTON: But for the  
2 public piece of the technical session, we have  
3 no objection.

4 HRG. EXAMINER SPEIDEL: Okay.  
5 That would be an acceptable way of handling  
6 the pendency of your intervention request, I  
7 believe. So, feel free to join in the  
8 technical session and observe the proceedings.

9 So that affidavit would be  
10 Record Request 1. And Record Request 2 would  
11 be the response from Staff and the Company,  
12 just to be sure.

13 Well, that relates to the  
14 intervention requests. We do have some  
15 confidential material that was filed under a  
16 motion for confidential treatment. In  
17 general terms, I would like to ask the  
18 Company to just summarily explain its reasons  
19 for seeking confidentiality of this material.

20 MS. KNOWLTON: Thank you. The  
21 Company has submitted its filings both in  
22 confidential and redacted form so that the  
23 Commission would be in a position to look at  
24 what is confidential in the documents.

1       Essentially, as I indicated earlier, there are  
2       commercial terms in the precedent agreement,  
3       pricing terms and other related terms that the  
4       Company seeks protective treatment of. This  
5       is not information that the Company has  
6       otherwise disclosed to the public, and we  
7       believe if disclosed could cause harm to the  
8       Company. These terms are also terms that --  
9       many of these terms were terms that were  
10      negotiated by all nine local distribution  
11      companies that have been negotiating with  
12      Tennessee. The pricing is the same for all of  
13      the companies. And so, you know, this  
14      information is, again, not just confidential  
15      as to EnergyNorth, but also to the other  
16      nine -- excuse me -- eight other LDCs that  
17      participated in this negotiation. It's the  
18      kind of information that the Commission has  
19      protected in the past. I don't think the  
20      nature of the request is unusual. The Company  
21      typically, as part of its cost of gas  
22      proceedings, will present to the Commission  
23      the commercial terms upon which it purchases  
24      either capacity or commodity from suppliers,

1 and we regularly receive protective treatment  
2 for that information. And in fact, the PUC  
3 200 rules recognize that and provide for  
4 protective treatment in cost of gas  
5 proceedings for those contracts. This is very  
6 similar to that type of information. It's  
7 just, you know, obviously earlier in the  
8 contracting process than some of the contracts  
9 that are -- this is sort of a precontract, but  
10 it still has the material financial terms in  
11 it.

12 So, for those reasons, and  
13 others stated in the motion for protective  
14 treatment, I would ask that the Commission  
15 grant the motion.

16 HRG. EXAMINER SPEIDEL: Very  
17 well. And this sort of material has been  
18 routinely provided confidential treatment in  
19 past proceedings; is that right, Ms. Knowlton?

20 MS. KNOWLTON: Well, the last  
21 proceeding that was, I would say like this,  
22 was DG 07-101, which was the last time that  
23 EnergyNorth came before the Commission to seek  
24 additional capacity on a gas pipeline and to



1 seek permission from the Commission to enter  
2 into a contract in advance, you know, of the  
3 work to be done on the pipeline. So I believe  
4 that in 07-101 there was similar information  
5 that was redacted.

6 But with regard to the cost of  
7 gas proceedings, whether it's winter cost of  
8 gas or summer cost of gas, the Company is  
9 presenting in those proceedings contracts  
10 with pricing information that reflects the  
11 cost to procure capacity or either commodity  
12 that then, you know, is wrapped into the  
13 Company's rates that the Commission approves.  
14 And those contracts, again, under the 200  
15 rules, are regularly protected from public  
16 disclosure, I think with the recognition that  
17 if that information was public, it would  
18 impair the Company's ability to negotiate  
19 favorable terms in the marketplace.

20 HRG. EXAMINER SPEIDEL: Thank  
21 you.

22 Staff? Ms. Patterson?

23 MS. PATTERSON: Thank you. I  
24 agree that there is a privacy interest on

1       behalf of the Company for this information.

2       It is analogous to information that the  
3       Commission provided protection to in the past.

4       I also agree that there -- but I disagree  
5       respectfully with the Company that there is no  
6       public interest whatsoever in the information.

7       I do believe that there is a public interest  
8       in what the Company terms as "critical terms"  
9       to a contract which ratepayers may eventually  
10      have to pay. However, I think the privacy  
11      interest outweighs the public's interest in  
12      that information, and for that reason I would  
13      support the motion for confidential treatment.  
14      Thank you.

15                    HRG. EXAMINER SPEIDEL: Thank  
16      you.

17                    Do any other parties present  
18      or persons present today have any objection  
19      against the motion for confidential  
20      treatment?

21                    (No response.)

22                    HRG. EXAMINER SPEIDEL: Hearing  
23      none, I will grant the motion for confidential  
24      agreement due to the fact that it is

1 commercially sensitive financial information  
2 that requires protection, and I would ask that  
3 all parties that have access to such  
4 information maintain its confidentiality  
5 subject to Commission rules and the New  
6 Hampshire statutes. Thank you.

7 MS. KNOWLTON: Hearing Officer  
8 Speidel, if I might circle back for a minute  
9 to Record Request 1 and 2 --

10 HRG. EXAMINER SPEIDEL: Sure.

11 MS. KNOWLTON: -- and inquire  
12 whether you wish to consider a deadline for  
13 the filing of them?

14 HRG. EXAMINER SPEIDEL: The  
15 affidavit?

16 MS. KNOWLTON: And a time for  
17 response, just given that we're on a -- trying  
18 to keep a tight time frame on the docket.

19 HRG. EXAMINER SPEIDEL: That's  
20 actually a good suggestion. I would have  
21 expected that folks would have filed these  
22 with all deliberate speed. But establishing  
23 specific deadlines is quite wise.

24 I would recommend that the

1 deadline for the affidavit be next Thursday.  
2 That would be Record Request 1. And the  
3 response would be the following Thursday.  
4 And I would make sure to have an expeditious  
5 recommendation ginned up probably that Friday  
6 and filed with the commissioners for their  
7 consideration. The reason I haven't ruled on  
8 it definitively is because there's a question  
9 of fact outstanding here. So we have to be  
10 patient and just wait a couple weeks. But I  
11 found that it's better to have a little extra  
12 time for quality work and everyone is able to  
13 get their ducks in a row at both ends. So  
14 that's much appreciated.

15 And I believe that would  
16 conclude -- let me see. We do have -- we  
17 have received -- just for the record, oral  
18 record, we have received the affidavit of  
19 publication from the Company of the order of  
20 notice. I don't believe there are any  
21 ancillary procedural matters to address. Ms.  
22 Knowlton? Ms. Patterson?

23 MS. PATTERSON: No.

24 HRG. EXAMINER SPEIDEL: So,

1           therefore, I would invite the participants to  
2           make their initial statements of position.  
3           And that actually extends to non-intervenors.  
4           Any member of the public is welcome to make  
5           comments regarding any proceeding and to  
6           monitor the docket's public filings, and so  
7           when there is a public hearing on this -- and  
8           I address this to all potential or possible  
9           intervenors -- you're welcome to make public  
10          statements regarding your viewpoints on such  
11          matters.

12                        So I would like to begin by  
13           offering the Town of Dracut an opportunity to  
14           speak a few words if you'd like.

15                       MR. HALL: I don't have  
16           anything further today, sir. Thank you.

17                       HRG. EXAMINER SPEIDEL: Thank  
18           you. PLAN?

19                       MR. KANOFF: We'll reserve and  
20           have appropriate comments should we be allowed  
21           to intervene.

22                       HRG. EXAMINER SPEIDEL: Okay.  
23           Very well. Any other persons in the room  
24           would like to make a comment?

1 (No response)

2 HRG. EXAMINER SPEIDEL: Hearing  
3 none, I would invite Staff to make its  
4 position.

5 MS. PATTERSON: Thank you. In  
6 recent years, in the context of the  
7 Commission's oversight of natural gas rates  
8 and long-term resource planning by natural gas  
9 distribution utilities, the Commission and  
10 Staff have heard about developments in the New  
11 England natural gas market. The discovery of  
12 large quantities of natural gas reserves in a  
13 rock formation known as Marcellus shale has  
14 resulted in historically low prices in states  
15 just outside of New England and historically  
16 high prices within New England. Two  
17 contributors to the high New England prices  
18 are the increases in electric generation  
19 fueled by natural gas and the state of  
20 existing New England pipeline infrastructure  
21 that falls short in terms of capacity or  
22 pipeline size of the demands these and other  
23 customers are driving. When customers' needs  
24 for gas increase beyond the utilities' firm

1 pipeline capacity, the utilities must purchase  
2 capacity in the spot market and pay the prices  
3 demanded at that time. As we saw last winter,  
4 these circumstances leave some natural gas  
5 customers, particularly those without  
6 competitive alternatives for supply, like  
7 residential and small commercial customers, at  
8 high financial risk to the instability of the  
9 New England gas spot market. This isn't to  
10 mention the risk that capacity could not be  
11 purchased at any price because demand exceeds  
12 all existing pipeline capacity. While these  
13 conditions are serious, a utility's decision  
14 to enter into a 20-year contract for pipeline  
15 capacity at substantial cost to customers  
16 requires careful, thoughtful analysis and  
17 consideration by the Commission. A number of  
18 substantive issues must be explored, including  
19 alternative analysis, underlying assumptions,  
20 associated contract commitments, the impact on  
21 the Company's gas distribution and  
22 transmission systems within New Hampshire, and  
23 the ability to reach unserved or underserved  
24 New Hampshire markets and the associated rate

1 impacts. The Company's right to terminate the  
2 precedent agreement with Tennessee Gas  
3 Pipeline expires on July 1st, 2015. To  
4 satisfy that deadline, the Company requested  
5 approval at least 30 days in advance of it.  
6 And in an effort to satisfy that request,  
7 Staff has already sent out data requests and  
8 received responses from the Company.

9 Staff has no position at this  
10 time but will be looking at what hopefully  
11 will be the best-case solution for all  
12 concerned and will use its very best efforts  
13 to move the docket along and expect the  
14 Company and other parties to do likewise.

15 Melissa Whitten and Dr. Al  
16 Pereira, of La Capra Associates, which is a  
17 consulting firm in Boston, Massachusetts,  
18 will assist Staff in its review of these  
19 issues and other related issues.

20 Thank you for your -- oh, I  
21 just wanted to let you know that at the  
22 prehearing conference, it's Staff's intention  
23 to discuss a potential procedural schedule  
24 for submission to the Commission and to



1       also -- to the extent that there are any  
2       procedural issues, preliminary procedural  
3       issues identified in the context of the tech  
4       session, Staff will report that to the  
5       Commission as well following the tech  
6       session.

7               As you had indicated earlier,  
8       Staff welcomes the participation of potential  
9       intervenors, as well as members of the public  
10      may participate, to the extent that -- may  
11      attend the tech session, to the extent that  
12      there is not confidential information  
13      discussed. It is a public meeting as far as  
14      the Commission is concerned, except to the  
15      extent that confidential information is  
16      discussed.

17              And also, as I indicated,  
18      Staff has propounded two sets of data  
19      requests to date. We've received responses  
20      to the first set, and the second set of  
21      responses are due early next week.

22              To the extent that there are  
23      interventions granted, I am happy to forward  
24      Staff's data requests, make sure that those

1 are forwarded to the intervenor or  
2 intervenors. And I would ask that the  
3 Company handle forwarding responses to those  
4 individuals that may be added to the parties  
5 because there is confidential information  
6 contained in at least the first set.

7 Thank you for your time and  
8 attention.

9 HRG. EXAMINER SPEIDEL: Thank  
10 you, Ms. Patterson.

11 Ms. Knowlton.

12 MS. KNOWLTON: Thank you. As  
13 indicated by the Company's petition, it is  
14 seeking approval from this Commission to enter  
15 into a 20-year contract with Tennessee,  
16 pursuant to which the Company would purchase  
17 on a firm basis up to 115,000 dekatherms per  
18 day in capacity. The Company is seeking  
19 Commission approval in advance of entering  
20 into the transaction, given the very  
21 substantial financial commitment that is  
22 required for this long-term agreement. As Mr.  
23 DaFonte explained in his prefiled testimony,  
24 the contract with Tennessee is prudent and in

1 the public interest because the Company needs  
2 this firm transportation capacity to reliably  
3 serve its existing customers, as well as  
4 future customer load requirements within its  
5 service territory.

6 The Commission considered the  
7 Company's forecast in its most recently filed  
8 IRP in Docket DG 13-313, which was approved  
9 by Order 75,762 just about a week ago. The  
10 Commission in that docket recognized that the  
11 Company does have additional need for  
12 capacity in the future.

13 As Staff has indicated, this  
14 capacity is necessary to replace very costly  
15 market-area capacity that we're now  
16 purchasing. And, you know, this really is an  
17 opportunity that is important to seize now.  
18 There has not been another opportunity to  
19 purchase capacity like this, you know, and  
20 it's been I think close to 20 years  
21 previously that there was a pipeline  
22 constructed that provided this type of  
23 opportunity. And our concern is we've  
24 evaluated this option and we think it's the

1 best cost option for our customers and we  
2 think it's important to seize the option  
3 while it's available. We don't know whether  
4 there will be a similar opportunity in the  
5 future that is as well positioned as this  
6 one. Our customers have been paying high  
7 prices for natural gas, when, as attorney for  
8 Staff indicated, there is much more  
9 affordable Marcellus gas that's available.  
10 That supply source is the closest it's ever  
11 been to our customers, and yet, we have not  
12 been able to access that. We've been buying  
13 gas from much further away which is more  
14 costly. So we really believe quite strongly  
15 that we need to take advantage of this  
16 opportunity as it exists today.

17 The pricing terms that the  
18 Company has entered into we believe are quite  
19 favorable, having been negotiated by the  
20 Company and other distribution utilities in  
21 New England. We think we have a very  
22 favorable rate that will be beneficial to our  
23 customers. This opportunity also provides  
24 for system reliability, which we think is

1 important for the Commission to consider. It  
2 will allow for a secondary point of delivery  
3 on the west end of our distribution system.  
4 Right now, there is just one delivery point,  
5 which, you know, does leave some  
6 vulnerability in our system. And it would be  
7 very important for long-term reliability to  
8 have a second delivery point through which we  
9 can receive commodity.

10 So, for those reasons we look  
11 forward to consideration of the Company's  
12 proposal in this docket. And we very much  
13 appreciate the Staff and the consumer  
14 advocate have worked with the Company to put  
15 together a procedural schedule that does meet  
16 the Company's proposed time frame. So we  
17 look forward to hammering out any other  
18 details associated with that in the technical  
19 session that follows.

20 HRG. EXAMINER SPEIDEL: Thank  
21 you, Ms. Knowlton.

22 I believe that would conclude  
23 our prehearing conference. Thank you all for  
24 your attendance. And you can expect my

1       hearings examiner report very shortly on  
2       this. Thank you very much. Good-bye.

3               (WHEREUPON the hearing was adjourned at  
4               9:51 a.m.)

**C E R T I F I C A T E**

I, Susan J. Robidas, a Licensed  
Shorthand Court Reporter and Notary Public  
of the State of New Hampshire, do hereby  
certify that the foregoing is a true and  
accurate transcript of my stenographic  
notes of these proceedings taken at the  
place and on the date hereinbefore set  
forth, to the best of my skill and ability  
under the conditions present at the time.

I further certify that I am neither  
attorney or counsel for, nor related to or  
employed by any of the parties to the  
action; and further, that I am not a  
relative or employee of any attorney or  
counsel employed in this case, nor am I  
financially interested in this action.

  
-----  
Susan J. Robidas, LCR/RPR

Licensed Shorthand Court Reporter  
Registered Professional Reporter  
N.H. LCR No. 44 (RSA 310-A:173)