

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 21-006

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

**Petition for License to Construct and Maintain a
Natural Gas Pipeline beneath Lake Winnisquam in Tilton**

Order *Nisi* Granting License

ORDER NO. 26,471

April 16, 2021

This order grants Liberty a license to construct and maintain a natural gas pipeline under the public waters of Lake Winnisquam in Tilton. This order is being issued on a *nisi* basis to ensure that interested persons receive notice and have an opportunity to comment or request a hearing before the order becomes effective.

I. PROCEDURAL HISTORY

On January 20, 2021, Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty (Liberty, or the Company) filed a petition pursuant to RSA 371:17 requesting a license to construct and maintain a natural gas pipeline beneath Lake Winnisquam. The new gas pipeline will run from the Company's plant at 33 Tilton Road for approximately five miles along Laconia Road (Route 3) to a proposed future regulator station near Mosquito Bridge in Tilton, New Hampshire. In support of its petition, Liberty submitted a "5 Year Plan for Increasing Gas Supply to Downtown Laconia" timeline, a project diagram showing construction details, and two aerial photographs of the crossing location.

Commission Staff (Staff) recommended that Liberty's petition be granted, subject to certain conditions. The petition and subsequent docket filings, other than any information for

which confidential treatment is requested of or granted by the Commission, are posted on the Commission's website at <https://www.puc.nh.gov/Regulatory/Docketbk/2021/21-006.html>.

II. SUMMARY OF PETITION

According to the petition, Liberty is undertaking a five-year plan to increase gas supply to its Laconia service area due to an increase in the number of commercial and industrial customers in the city. The existing gas main along Laconia Road currently is the only source of gas supply for Laconia. Liberty plans to install a second, parallel gas main from its plant at 33 Tilton Road in Tilton to a proposed regulator station near Mosquito Bridge, also in Tilton. According to Liberty, the second parallel main would allow for greater capacity and increased reliability, and the specified construction is necessary to meet requirements for reasonable service to the public.

A. Crossing Location and Construction

The proposed main build-out in the upcoming construction season constitutes Phase 3 of Liberty's 5-phase project plan for the Laconia service area. Phase 3 consists of installing 4,600 feet of polyethylene gas main piping in the north section of Laconia Road/US Route 3, as specified in the petition, and 1,600 feet of the same piping in the south section of Laconia Road/US Route 3 in the vicinity of the Company's Tilton facility.

Liberty stated that the proposed crossing encompasses a 400-foot section of Lake Winnisquam along the western edge of Laconia Road/US Route 3 near Chapman Road. A gas distribution main approximately 35 feet in length will be installed beneath a section of Lake Winnisquam at that location. According to the petition, Liberty will utilize Horizontal Directional Drilling (HDD) to drill underneath the lake to permit installation of the new pipeline under the lake bed without surface water impacts.

Liberty proposes to install the new gas main with a minimum 250-foot pipe bend radius to avoid stresses in excess of permissible levels. The new gas main will consist of an 8-inch diameter high density polyethylene (HDPE) SDR-11 plastic pipe installed up to 7 feet below the lake bed and up to 17 feet below the existing road grade. Liberty intends to operate the gas main at approximately 125 psig.¹

Liberty asserted that Phase 3 of the five-phase project is driven by plans of the New Hampshire Department of Transportation (DOT) to pave sections of Laconia Road/US Route 3. The Company claimed that it can achieve substantial savings for its customers by performing the proposed work in advance of municipal or state paving projects. Liberty stated that it will be responsible for the construction of the pipeline, which will be performed by qualified contractors, and that it will own and maintain the pipeline following the completion of construction.

B. Regulatory Requirements

According to Liberty, the proposed water crossing requires a Shoreland Permit by Notification from the New Hampshire Department of Environmental Services (DES) that will be obtained prior to construction. Liberty also indicated that the State of New Hampshire owns the land on both sides of the crossing, and that the Company will obtain Standard DOT use and occupancy agreements to place pipe within DOT rights of way on that land.

The Safety Division reviewed the petition and attachments submitted by Liberty and noted that the Company provided engineering details that show overall compliance with 49 CFR

¹ The current maximum allowable design pressure pursuant to 49 CFR Part 192.121(c)(2)(i) is 125 pounds per square inch gauge (psig).

Part 192, as referenced in Puc 506.01. Staff found the proposed crossing to be in compliance with the applicable requirements of Chapter Puc 500 and Chapter Puc 800, and 49 CFR Part 192.

C. Property Rights

Liberty provided documentation to demonstrate that the parcels of land along the shores of Lake Winnisquam where the horizontal directional bore entry and exit pits will be located fall within the DOT right-of-way on State land, as noted above. According to Liberty, all work will be confined to public rights-of-way and no taking of private property or additional acquisition of property rights is required.

D. Service to the Public and Effect on Public Rights

The pipeline installation is part of Liberty's five-year plan to increase gas supply to its Laconia service area due to an increase in the number of commercial and industrial customers in Laconia. Liberty submitted that the requested crossing license can be exercised without substantially affecting the rights of the public in the waters of Lake Winnisquam, and that the use and enjoyment of Lake Winnisquam by the public will not be diminished as a result of the Company's plan to construct and maintain a second pipeline beneath the lake.

III. SUMMARY OF STAFF REVIEW

Staff reviewed the petition and supporting documentation, applicable statutes, rules, and the requirements of 49 CFR Part 192, and assessed the public need, safety, and potential impact of the requested license. Based on its review, Staff recommended that approval of Liberty's petition be limited to the natural gas pipeline under consideration in this docket, with the following recommended conditions:

1. Liberty shall construct, operate, and maintain the piping consistent with the requirements of both Puc 506.02 and 49 CFR Part 192 and the North American Society for Trenchless Technology (NASTT) Horizontal Directional Drilling Good Practices Guidelines (4th Edition).

2. Liberty shall operate and maintain the crossing in conformance with the latest 49 CFR Part 192 amendments. Any and all future alterations to the crossing that may impact the public shall conform to the most current 49 CFR Part 192 amendments in effect at the time of submittal of such alterations.
3. Liberty shall use aboveground pipeline markers to identify the pipeline location with appropriate warnings and Company contact information on each side of the Lake Winnisquam crossing. The gas main must be locatable for future excavations using a tracer wire or other suitable equivalent means.
4. Continuous monitoring for possible hydro fracture situations shall be provided during the HDD operation.
5. Containment measures shall be implemented immediately in the event of a hydro fracture situation and, at a minimum, shall include notifications to be made to the PUC Safety Division and DES in the event a hydro fracture occurs.
6. Clean-up procedures to be implemented in the event of a hydro fracture occurrence shall be set up on-site prior to the beginning of the HDD operation.

With the above conditions, Staff determined that the proposed natural gas pipeline crossing will meet current safety standards required under Puc 506.02 and 49 CFR Part 192, and found that construction of the new gas distribution main under Lake Winnisquam, as proposed, may be exercised without substantially affecting the public rights in public waters and state lands.

IV. COMMISSION ANALYSIS

“Whenever it is necessary, in order to meet the reasonable requirements of service to the public, that any public utility should construct a pipeline, cable, or conduit, or a line of poles or towers and wires and fixtures thereon, over, under or across any of the public waters of this state, or over, under or across any of the land owned by this state, it shall petition the commission for a license to construct and maintain the same.” RSA 371:17 (Supp. 2020). The Commission is authorized to grant such a license if it “may be exercised without substantially affecting the public rights in said waters or lands.” RSA 371:20. DES has classified Lake Winnisquam as a “public water.”²

² See <https://www.des.nh.gov/sites/g/files/ehbemt341/files/documents/olpw.pdf>.

Based on the petition and Staff's recommendations, we find that the proposed crossing is necessary to meet the reasonable requirements of reliable service to the public, as required by RSA 371:17. We further find that the requested license may be exercised without substantially affecting the public rights in Lake Winnisquam, as required for approval under RSA 371:20. We therefore approve the petition subject to the conditions contained in the ordering clauses below. We issue our decision on a *nisi* basis to provide interested persons the opportunity to submit comments or request a hearing.

This approval applies only to the pipeline infrastructure specified in this docket. Should Liberty seek any future modifications, it must make an appropriate filing. Liberty is responsible for obtaining any and all federal, state, or local permits required by authorities having jurisdiction for the construction and installation of the proposed pipeline crossing.

We require notice to be provided to the Town of Tilton, DES, DOT, and, pursuant to RSA 371:19, the Office of the Attorney General, and owners of land bordering the public water crossing.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, Liberty is authorized, pursuant to RSA 371:17, *et seq.*, to construct, install, operate and maintain a natural gas pipeline under Lake Winnisquam in Tilton as described and depicted in its petition filings and as specified in Staff's recommendation; and it is

FURTHER ORDERED, that approval is limited to the natural gas main as specified in this docket, and is conditioned on the requirement that Liberty construct, operate, maintain and, if necessary, alter the pipeline consistent with the provisions of N.H. Admin. Rules Chapter Puc

500 and Chapter Puc 800, and 49 CFR Part 192, as may apply, and as amended from time to time, and all other applicable safety standards in existence at that time; and it is

FURTHER ORDERED, that Liberty shall adhere to the North American Society for Trenchless Technology (NASTT) Horizontal Directional Drilling Good Practices Guidelines (4th Edition); and it is

FURTHER ORDERED, that Liberty shall submit to the Commission any future proposed alterations to the crossing license granted herein at least 60 days prior to undertaking any such alterations; and it is

FURTHER ORDERED, that Liberty shall use above-ground markers to identify the pipeline location, with appropriate warnings and Company contact information, on each bank of Lake Winnisquam adjacent to the crossing, and the gas main shall be locatable for future excavations using a tracer wire or other suitable equivalent means; and it is

FURTHER ORDERED, that Liberty shall notify the Safety Division of the PUC three days before the date on which it begins horizontal directional drilling, so that a member of the Safety Division, if available, may be present during drilling; and it is

FURTHER ORDERED, that Liberty shall continuously monitor the crossing site during horizontal directional drilling operations for possible hydro fracture situations; and it is

FURTHER ORDERED, that Liberty shall implement containment measures immediately in the event of a hydro fracture occurrence. If such an event occurs, Liberty shall immediately notify the Safety Division of the PUC and the appropriate DES personnel; and it is

FURTHER ORDERED, that clean-up procedures to be implemented in the event of a hydro fracture occurrence shall be established on-site prior to the beginning of horizontal directional drilling operations; and it is

FURTHER ORDERED, that Liberty shall provide a copy of this order to: (i) the Town Clerk of Tilton, New Hampshire; (ii) the New Hampshire Department of Transportation; (iii) the New Hampshire Department of Environmental Services; and (iv) the New Hampshire Attorney General and all owners of the land bordering on said public waters at the location of the crossing in Tilton, as required by RSA 371:19, by first class mail, no later than April 20, 2021, to be documented by affidavit filed with the Commission on or before April 27, 2021; and it is

FURTHER ORDERED, that Liberty shall publish a copy of this order *nisi* no later than April 20, 2021, in a newspaper with general circulation in those portions of the state in which operations are conducted, such publication to be documented by affidavit filed with the Commission on or before April 27, 2021; and it is

FURTHER ORDERED, that Liberty shall cause a copy of this order *nisi* to be published on its website within one business day of this order, such publication to be documented by affidavit filed with the Commission on or before April 27, 2021; and it is

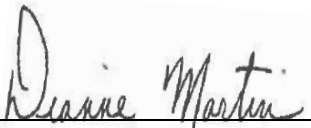
FURTHER ORDERED, that the Executive Director of the Commission shall cause a copy of this order *nisi* to be published on the Commission's website within one business day; and it is

FURTHER ORDERED, that persons interested in responding to this order be notified that they may submit their comments or file a written request for a hearing that states the reason and basis for a hearing no later than April 30, 2021, for the Commission's consideration; and it is

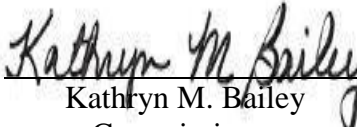
FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than May 4, 2021; and it is

FURTHER ORDERED, that this order shall be effective May 6, 2021, unless Liberty fails to satisfy the notice and publication obligations set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of April, 2021.

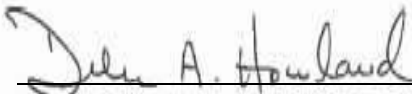


Dianne Martin
Chairwoman



Kathryn M. Bailey
Commissioner

Attested by:



Debra A. Howland
Executive Director

Service List - Docket Related

Docket# : 21-006

Printed: 4/16/2021

Email Addresses

ExecutiveDirector@puc.nh.gov
Peter.Chivers@LibertyUtilities.com
lynn.fabrizio@puc.nh.gov
steve.frink@puc.nh.gov
susan.gagne@puc.nh.gov
maureen.karpf@libertyutilities.com
Paul.Kasper@puc.nh.gov
randy.knepper@puc.nh.gov
jayson.laflamme@puc.nh.gov
catherine.marsellos@puc.nh.gov
steven.mullen@libertyutilities.com
amanda.noonan@puc.nh.gov
ocalitigation@oca.nh.gov
michael.sheehan@libertyutilities.com
karen.sinville@libertyutilities.com
joseph.vercellotti@puc.nh.gov