

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

RE: GRANITE STATE ELECTRIC COMPANY D/B/A LIBERTY UTILITIES

DOCKET NO. DE 12-347

**MOTION FOR REHEARING AND/OR RECONSIDERATION
OF ORDER NO. 25,625**

Liberty Utilities (Granite State Electric) Corp.¹ d/b/a Liberty Utilities (“Liberty Utilities” or the “Company) respectfully requests that, pursuant to RSA 541:3, the Commission reconsider or conduct a rehearing regarding Commission Order No. 25,625 (“the Order”) with regard to the requirement that the Company file its next Least Cost Integrated Resource Plan (“LCIRP”) by December 1, 2014. In support of its motion, Liberty Utilities states as follows:

1. RSA 541:3 provides that the Commission may grant a motion for rehearing if "good reason for the rehearing is stated in the motion." *See Connecticut Valley Electric Co. v. Public Service Co. of New Hampshire*, DE 03-030, Order No. 24,189 dated Jul. 3, 2003, at 2. The purpose of a rehearing is to provide consideration of matters that were either overlooked or "mistakenly conceived" in the original decision. *Dumais v. State*, 1 18 N.H. 309 (1978); *Investigation as to Whether Certain Calls are Local*, DT 00-223100-054, Order No. 24,218 dated Oct. 17,2003, at 8 ("Motions for rehearing direct attention to matters 'overlooked or mistakenly conceived' in the original decision and require an examination of the record already before the fact finder.")

¹ On January 14, 2014, Granite State Electric Company changed its name to Liberty Utilities (Granite State Electric) Corp.

2. In this case, the Company seeks rehearing and/or reconsideration of the Commission's directive in the Order that the Company file its next LCIRP by December 1, 2014. RSA 378:38, the statute that governs the filing of LCIRPs, states, in part, that "...each electric utility shall file a least cost integrated resource plan with the commission at least biennially." A little over one year after the Company filed its LCIRP, the Commission issued the Order finding the plan adequate and requiring that the next LCIRP be filed less than one year later. Order at 8. The Company seeks rehearing and/or reconsideration given that the Order does not address or explain the basis for the December 14, 2014 filing date. Rehearing and/or reconsideration is important in light of the Commission's varied historical practice for the timing of filing subsequent LCIRPs which was not addressed in the Order, and the fact that there is legislation pending that would fundamentally change the LCIRP requirement, both in content and in timing.

3. RSA 378:38, which creates the filing requirement for an LCIRP, provides only that the plan be filed "at least biennially," but does not specify from what date the biennial filing is required. For example, the statute does not specify whether the biennial requirement flows from the date of the filing of the LCIRP, two years from the date of the Commission's order on the pending LCIRP, or otherwise. The Commission's practice in establishing the time for filing LCIRPs is varied. *See e.g., In re Public Service Co. of New Hampshire*, 91 NH PUC 527 (2006) (PSNH ordered to file its next LCIRP more than two years from the date of the prior filing, which the Commission noted was "...consistent with the requirement in RSA 378:38 that such plans be filed at least biennially.") *Id.* at 538; *In re Public Service Co. of New Hampshire*, 94 NH PUC 103, 113 (2009) (PSNH directed to file its next LCIRP one year from the date of order); *In re Public Service Co. of New Hampshire*, 97 NH PUC 760 (2009)(PSNH ordered to file its next LCIRP 19 months from the date of approval of its last plan); *In re Granite State Electric*

Company dba National Grid, 93 NH PUC 96 (2008) (order addressing both the 2005 and 2007 plans filed by National Grid); *In re Unitil Energy Systems, Inc.*, Order 25,551 at 6 (Unitil's LCIRP found adequate by the Commission in 1996, and next LCIRP filed 7 years later, in 2013). Because the statute does not mandate the method for calculating the two year filing requirement, and the Commission's interpretation of that time frame has varied by circumstance, the basis for the December 1, 2014 filing date is not clear.

4. As the Commission is aware, a considerable amount of effort is required for a utility to prepare a meaningful LCIRP. In this case, the preparation of the next Liberty Utilities' LCIRP will require even more effort, since the Order requires the Company to take into account five additional planning criteria that are not part of the current statutory mandate. Order at 7-8. These additional criteria, which include developing "a detailed methodology of how Liberty intends to engage in distribution planning performed in the past by Liberty's former affiliate National Grid" and providing "a business process model that indicates the Liberty personnel responsible for each stage of distribution planning, the inputs involved in each stage, the outputs produced, and the time commitment for each stage," among other requirements, require significant consideration and will be difficult to carry out by December 1, 2014, along with the rest of the LCIRP process.

5. Perhaps more importantly, the Commission should take into account in its reconsideration of the Order that legislation is currently pending that would change the requirement for the filing of LCIRPs in the first instance. House Bill 1540, which was filed at the request of the Commission, would repeal the current version of RSA 378:38 and replace it with the following: "Utilities shall periodically submit to the commission long-term plans for operation of, and capital improvements to, utility plants with the goal of achieving reasonable

costs and providing adequate service to customers. The commission shall adopt rules to implement this long-term planning requirement.” The introduction of this legislation is a tacit acknowledgment by the Commission that the current LCIRP process warrants revision.

6. Given the pendency of House Bill 1540 and the fact that it would fundamentally change the timing and the substance of LCIRPs, the Company requests that the Commission suspend the filing of the Company’s next LCIRP until the legislation is fully considered by the General Court. This is appropriate because if enacted, the legislation would provide the Commission not only with flexibility to decide when any particular utility should file a LCIRP, but also will likely change the content of LCIRPs. Such changes are timely given that the current LCIRP framework in RSA 378:38 is based on a utility model that largely no longer exists, where electric distribution companies owned generation and, in some cases, transmission. Thus, some of the requirements in the statute are either not applicable, or become a mere exercise in recitation in the LCIRP. (*See e.g.*, RSA 378:38, III which requires an assessment of supply options). In the case of Liberty, the Company bids out all of its default service load pursuant to a Commission established process. As a result, the Company’s LCIRP merely restates that process, which is an exercise that meets the statutory requirement but does not add any real value to a discussion of long term planning. For the Company to file another LCIRP that addresses these statutory criteria when the Commission itself seeks to have them repealed is nonsensical.

7. Further, the legislation contemplates that the Commission would adopt rules to implement the planning requirement, which rules could be helpful to the Company (and ultimately the Commission) in the creation of its next long term plan. The Order itself reflects the Commission’s apparent dissatisfaction with the current planning criteria as it creates a series

of elements it requires Liberty to address in its next LCIRP so that there will be “a more robust approach.” Order at 7.

8. The Company submits that it would be sensible to wait to see if House Bill 1540 is enacted, and if that occurs, to allow the Commission time to promulgate regulations on the long term planning process. Under that new rubric, the Company could prepare a more meaningful LCIRP once those rules are promulgated. To require the Company to prepare its next LCIRP using a blend of the current statute and a new rubric, when legislation is pending that would fundamentally change the process, creates an unnecessary burden and a work product that may have limited utility.

9. For these reasons, the Company requests that the Commission reconsider the requirement in the Order that the Company meet with the Staff in October 2014 to discuss its next LCIRP and then file such LCIRP by December 1, 2014. The Company further requests that the Commission stay any such meeting and filing requirements until such time as the 2014 legislative session has been completed and there can be a determination of whether there has been a change to RSA 378:38. In the event that the law is repealed and amended, the Company requests that it not be required to file its next LCIRP until any regulations are promulgated implementing the new law, and the Company has been given sufficient time to develop a new plan that comports with any such new requirements.

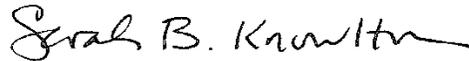
WHEREFORE, Liberty Utilities respectfully requests that the Commission:

- A. Grant this Motion for Rehearing and/or Reconsideration; and
- B. Such other relief as is just and equitable.

Respectfully submitted,

LIBERTY UTILITIES (GRANITE STATE
ELECTRIC) CORP. D/B/A LIBERTY
UTILITIES

By its Attorney,



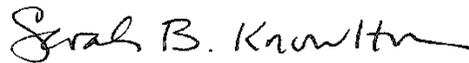
Date: February 24, 2014

By:

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Certificate of Service

I hereby certify that on February 24, 2014, a copy of this Motion has been forwarded to the service list in this docket.



Sarah B. Knowlton