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**THE STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

Docket No. DE 17-189

**LIBERTY UTILITIES (GRANITE STATE ELECTRIC) CORP.,
d/b/a LIBERTY UTILITIES**

Petition to Approve Battery Storage Pilot Program

CONSERVATION LAW FOUNDATION

MEMORANDUM OF LAW

Conservation Law Foundation (CLF) hereby provides a limited memorandum of law in response to the Commission’s request that the parties specify how the Settlement Agreement reached in this proceeding satisfies the requirements of RSA 364-G. This limited memorandum addresses subsections (d) and (f) of RSA 364-G:5, II. RSA 364-G:5, II requires the Commission to determine whether a regulated utility’s investment in distributed energy resources, and its recovery of that investment in rates, are in the “public interest” after giving “balanced consideration and proportional weight” to nine factors. Among these nine factors, subsection (d) directs the Commission to weigh the “environmental benefits of the investment to the state of New Hampshire,” and subsection (f) requires the Commission to weigh the “effect of the investment on competition within the region’s electricity markets and the state’s energy services



market.” CLF concludes that the battery storage proposed pilot in this proceeding satisfies both of these factors of the statute.

Background

On December 1, 2017, Liberty Utilities filed a Petition to Approve Battery Storage Program, with accompanying testimony. The Commission subsequently opened Docket No. DE 17-189, and granted intervention rights to CLF and various other parties. On February 9, 2018, Liberty submitted Supplemental Testimony, with further revisions to certain pages on February 13, 2018. The parties subsequently engaged in discovery, and on May 1, 2018, a number of intervenors, the Office of the Consumer Advocate, and Commission Staff filed testimony or comments. Thereafter, the parties engaged in extensive settlement negotiations, and on November 19, 2018, Liberty filed an uncontested Settlement Agreement, with Sunrun, Inc. and ReVision Energy abstaining. Under the Settlement Agreement, Liberty Utilities would install 500 batteries in the homes of customers, and a private company (or companies) would install approximately 500 additional batteries. All of the batteries are expected to be used for backup power during outages; to cut peak demand for system-wide savings through reduced RNS and LNS transmission charges; and to help lower costs for participating customers, including by shifting load and/or excess solar generation in connection with time-of-use rates. The batteries may be used to store solar energy, in the event that a participating customer has a distributed solar array.



Argument

Environmental benefits, RSA 364-G:5, II(d)

The environmental benefits of the proposed project support a finding that the proposed pilot is in the public interest. The proposed pilot provides several environmental benefits to the state. First, it can help the state test how to better integrate clean, renewable energy using time-of-use rates and battery storage. The Testimony of Clifton Below states that, in addition to making available time-varying rates, “deployment of storage technologies such as Liberty’s proposed piloting of electric batteries at scale is ...[a] key enabler to cost-effectively integrating renewables at scale.” Below Test. at 15; *see also* Tr. 96:21-24, 97:1-10 (Below). Second, the proposed pilot will reduce dirty diesel emissions by avoiding the use of diesel generators for backup power. Tebbetts Supp. Test. at 4; OCA Huber Test. 18-19. Third, because peak demand reduction has the potential to reduce harmful emissions from regional generation, testing this peak demand reduction method will help the state to protect the environment, public health, and safety. Tebbetts Supp. Test. at 12: 5-8; Tr. 97:11-19 (Below). For each of these reasons, the pilot will benefit the environment of New Hampshire and is in the public interest.

Effect on competition, RSA 364-G:5, II(f)

The proposed pilot is also in the public interest because it will not substantially harm competition, and ultimately stands to significantly benefit competition. CLF and other parties expressed concern about the effects of Liberty’s pilot program, as initially proposed, due to potential negative effects on the market for competitive services in the state as a result of Liberty

owning and installing all batteries in the pilot. *See, e.g.*, CLF Comments at 4-5; Barnes Test. at 25-27. The Settlement Agreement alleviates this concern by incorporating a competitive aggregator portion of the pilot that is equal in size to the regulated utility-owned portion of the pilot. Settlement Agreement at 6, 14-16; *see also* Tr. at 96:6-11 (Below). This ensures that Liberty will not exert its monopoly customer access to the exclusion of competitive forces.

Furthermore, under the terms of the Settlement Agreement, the bring-your-own-device portion of the pilot will benefit competition by opening a new market for competitive aggregator services in the state.¹ *See id.* Liberty will facilitate this new market by working with the competitive service provider(s), who will be selected by RFP, in conducting joint marketing and customer outreach. Settlement Agreement at 16 (“Liberty shall engage in co-marketing and customer outreach with any accredited aggregator”). It is further anticipated that Liberty may assist the competitive portion of the pilot by providing peak demand reduction prediction services. *Cf. id.* at 16-17. In addition, by testing both time-of-use rates and battery storage, the pilot has the potential to enhance markets for distributed solar by demonstrating new value streams. *See* Below Test. at 15; *see also* Tr. 96:21-24, 97:1-10 (Below). As a result, the proposed pilot established by the Settlement Agreement now before the Commission benefits competition and is in the public interest.

¹ The participating competitive service provider(s) ultimately selected may also help to break new ground with regard to the participation of battery storage in regional markets. *See Barnes Test.* at 10-12 (describing regional market opportunities in which such competitive aggregators may be eligible to participate).



Conclusion

For the reasons stated above, and in accordance with evidence in the Settlement Agreement and other party filings that pertains to factors weighed under RSA 364:G that are not addressed in this limited memorandum, Conservation Law Foundation urges the Commission to approve the Settlement Agreement in this proceeding.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "M. E. Birchard", is written above a horizontal line.

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Dated: December 13, 2018



CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments of Conservation Law Foundation have, on this 13th day of December, 2018, been sent by email to the service list in Docket No. DE 17-189.

A handwritten signature in blue ink, appearing to read "M. E. Birchard", is written above a horizontal line.

Melissa E. Birchard
Conservation Law Foundation