

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 20-105

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

Request for Change in Rates

SETTLEMENT AGREEMENT ON RATE CASE EXPENSES

This Settlement Agreement on Rate Case Expenses (“Settlement Agreement”) is entered into this 19th day of April 2023, by and among Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty (“Liberty” or the “Company”) and the Department of Energy (“DOE”). This Settlement Agreement resolves all remaining issues among the Settling Parties regarding the Company’s request to recover rate case expenses in this docket.

INTRODUCTION AND PROCEDURAL HISTORY

1. On August 30, 2021, Liberty filed a Motion for Recovery of Rate Case Expenses, seeking authority to collect \$856,865 of actual and estimated rate case expenses through its Local Distribution Adjustment Charge (LDAC) beginning November 1, 2021. This amount had been agreed to in the settlement agreement that the Commission approved, in part, in Order No. 26,505 (July 30, 2021), subject to audit and update for actual invoices.
2. In Liberty’s subsequent LDAC filing, reviewed in Docket No. DG 21-130, Liberty sought approval to recover rate case expenses in the amount of \$785,177. The Commission deferred ruling on rate case expenses until the completion of an audit by DOE’s Audit Division. Order No. 26,541 (Oct 29, 2021).
3. The Audit Division issued its audit report on rate case expenses on October 11, 2021. The Audit reports recommended approval of most of the rate case expenses that Liberty

proposed for recovery except for the Audit Report's recommended non-recovery of some legal fees paid to Keegan Werlin and costs for some consulting services by ScottMadden. DOE further recommended non-recovery of costs for services by Management Applications Consulting.

4. In Order No. 26,691 (Sept. 29, 2022), the Commission approved recovery of \$680,770, which represented the audited and agreed-to rate case expenses. The Commission deferred until a later hearing a resolution of the unaudited and contested cost items to allow time for an updated audit. *Id.* at 3.
5. The Audit Division completed its updated audit in November 2022.
6. DOE and the Audit Division recommended non-recovery of \$37,997 in the remaining rate case expenses that Liberty had requested. Liberty agreed that some items may be removed from its request for recovery but contested the removal of other costs. The Commission has scheduled a hearing on April 20, 2023, to resolve the remaining disputes.

AGREEMENT

7. The Settling Parties agree that Liberty may recover an additional \$123,519 of rate case expenses.
8. The Settling Parties agree, and propose that the Commission approve, that Liberty may begin collecting these rate case expenses through an \$0.0111 per therm increase to the Rate Case Expenses/Temporary Rate Reconciliation (RCE) factor of the LDAC beginning June 1, 2023, over the remaining billing period through October 31, 2023. Attachment A provides the calculation of the rate change and the resulting bill impacts.

9. The Settling Parties agree, and propose that the Commission approve, that the Company's tariff change to eliminate carrying charges on any over- or under-collected balances on the RCE recovery be implemented on a going forward basis effective June 1, 2023. The proposed tariff changes are included on an illustrative basis in Attachment B.

EFFECTIVE DATE

10. This Settlement Agreement is subject to and shall become effective upon Commission approval, and the Settling Parties request that approval of the proposed LDAC rate and new tariff provisions to be effective June 1, 2023.

GENERAL PROVISIONS

11. This Settlement Agreement is expressly conditioned on the Commission's acceptance of all its provisions, without change or condition. If the Commission does not accept this Settlement Agreement in its entirety, without change or condition, or if the Commission makes any findings that go beyond the scope of this Settlement Agreement, and any of the Settling Parties notify the Commission within five business days of their disagreement with any such changes, conditions, or findings, the Agreement shall be deemed to be withdrawn, in which event it shall be deemed to be null and void and without effect, shall not constitute any part of the record in this proceeding, and shall not be relied on by Staff or any party to this proceeding or by the Commission for any other purpose.
12. Under this Settlement Agreement, the Settling Parties agree to this joint submission to the Commission as a resolution only of the issues specified here.
13. The Settling Parties agree that the Commission's approval of this Settlement Agreement shall not constitute continuing approval of, or precedent for, any particular principle or

issue, but does constitute a determination that the adjustments and provisions stated in their totality are just and reasonable and consistent with the public interest and that the rates contemplated will be just and reasonable under the circumstances.

14. This Settlement Agreement shall not be deemed an admission by any of the Settling Parties that any allegation or contention in this proceeding by any other party, other than those specifically agreed, is true and valid. This Settlement Agreement shall not be construed to represent any concession by any Settling Party regarding positions taken with respect to the Company's proposals in this docket, nor shall this Settlement Agreement be deemed to foreclose any Settling Party in the future from taking any position in any subsequent proceedings. The amounts associated with this Settlement Agreement are liquidated amounts that reflect a compromise of all the issues in this proceeding

15. The pre-filed Exhibit 61, Exhibit 62, and Exhibit 63 for the April 20, 2023, hearing are not expected to be subject to cross-examination by the Settling Parties, which would normally occur in a fully litigated case. The Settling Parties agree that all such pre-filed exhibits should be admitted as full exhibits for the purpose of consideration of this Settlement Agreement and be given whatever weight the Commission deems appropriate. Consent by the Settling Parties to admit all such pre-filed exhibits without challenge does not constitute agreement by any of the Settling Parties that the content of the pre-filed exhibits is accurate or that they should be assigned any particular weight by the Commission. The resolution of any specific issue in this Settlement Agreement does not indicate the Settling Parties' agreement to such resolution for purposes of any future proceedings, nor does the reference to any other document bind the Settling Parties to the contents of, or recommendations in, that document for purposes of any future proceeding. The Commission's approval of the

recommendations in this Settlement Agreement shall not constitute a determination or precedent with regard to any specific issue but rather shall constitute only a determination that the rates and tariff changes resulting from this Settlement Agreement are just and reasonable. The Settling Parties agree to forego cross-examining witnesses regarding the pre-filed exhibits and, therefore, the admission into evidence of any pre-filed exhibit shall not be deemed in any respect to constitute an admission by any party to this Agreement that any allegation or contention in this proceeding is true or false, except that the sworn testimony of any witness shall constitute an admission by such witness.

16. The rights conferred and the obligations imposed on the Settling Parties by this Settlement Agreement shall be binding on or inure to the benefit of any successors in interest or assignees as if such successor or assignee was itself a signatory party. The Settling Parties agree to cooperate in advocating that this Settlement Agreement be approved by the Commission in its entirety and without modification.
17. The discussions that produced this Settlement Agreement have been conducted on the understanding that all offers of settlement and settlement discussions relating to this docket shall be confidential, shall not be admissible as evidence in this proceeding, shall be without prejudice to the position of any party or participant representing any such offer or participating in any such discussion, and are not to be used in connection with any future proceeding or otherwise. The content of these negotiations, including any documents prepared during such negotiations for the purpose of reaching a settlement, shall be privileged and all offers of settlement shall be without prejudice to the position of any party presenting such offer.

18. This Settlement Agreement may be executed by facsimile and in multiple counterparts, each of which shall be deemed to be an original, and all of which, taken together, shall constitute one agreement binding on all Settling Parties.

CONCLUSION

19. The Settling Parties affirm that the proposed Settlement Agreement will result in just and reasonable rates and should be approved by the Commission.

Dated: April 19, 2023

Liberty Utilities (EnergyNorth Natural Gas) Corp.
d/b/a Liberty

/s/ Michael J. Sheehan
By its Attorney, Michael J. Sheehan

Dated: April 19, 2023

Department of Energy

/s/ Paul B. Dexter
By its Attorney, Paul B. Dexter