

**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

DG 21-130

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

Winter 2021/2022 Cost of Gas and Summer 2022 Cost of Gas

DG 21-132

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

Winter 2021/2022 Cost of Gas

Order Following Prehearing Conference

O R D E R N O . 26,663

August 4, 2022

Pursuant to Order No. 26,611 (April 15, 2022), on July 12, 2022, the Commission convened a prehearing conference in the above-captioned dockets. At that prehearing conference, Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty (Liberty), the NH Department of Energy (DOE), and the Office of the Consumer Advocate (OCA) appeared and addressed the following issues¹:

- 1) Whether a reconciliation adjustment(s) to the revenue decoupling adjustment factor (RDAF), as approved on a temporary, interim, and

¹ Order No. 26,611 (April 15, 2022) noticed a fourth topic which was not addressed because Liberty subsequently filed a new petition relating to past decoupling year RDAF adjustments; this issue has been docketed as No. DG 22-041. See Transcript of July 12, 2022 prehearing conference (7/12/22 Tr.) at 7.

provisional basis pursuant to Order Nos. 26,541 and 26,542, is necessary and appropriate, and if so in what amount;

- 2) Whether any tariff interpretation issues remain outstanding; and
- 3) To hear any further argument on the December 27, 2021, reports filed in Dockets Nos. DG 21-130 and DG 21-132, relating to future processes for filing, review, and consideration of subsequent Local Distribution Adjustment Clause (LDAC) adjustments and Cost of Gas (COG) rates.

I. ISSUE 1 – 2021–2022 RDAF

According to Liberty, the RDAF currently in effect is correct, and this issue may be closed. 7/12/22 Tr. at 8. The OCA stated that it agreed with Liberty, while deferring to the DOE because the DOE's analysis has been more robust. *Id.* at 9. The DOE stated that it had not had an opportunity to conduct discovery and requested that the Commission leave the matter open or incorporate it into Docket No. DG 22-041. *Id.* at 9–10.

Liberty objected to leaving this issue open for further discovery, arguing that the DOE has had since October 2021 to conduct discovery. The DOE responded that the Commission's April 15, 2022 Order No. 26,611 impacts its analysis and requested that the issue remain provisional and open, suggesting that it might be able to be addressed in Docket No. 22-041 according to a procedural schedule that the parties could develop. *Id.* at 12–13. All parties agreed that Issue 1 could be further addressed in Docket No. 22-041, as it is also a RDAF issue. *Id.* at 37.

II. ISSUE 2 – TARIFF ISSUES

Liberty and the OCA agreed that there were no further tariff issues outstanding. *Id.* at 13–14. The DOE requested an opportunity to examine that tariff language in connection with the R-4 question in Docket No. DG 22-041, but that other than re-

examining the specific tariff language, there are no other tariff issues outstanding. *Id.* at 14–15. Liberty did not object to the concept of making further revisions to the tariff language if it would clarify or improve the language. *Id.* at 16. All parties agreed that Issue 2 could be addressed in Docket No. 22-041. *Id.* at 37.

III. ISSUE 3 – PROSPECTIVE LDAC/COG PROCESS

Liberty recommended the unitary docket process outlined in the December 27, 2021, report be used to adjudicate the annual LDAC and COG adjustments. *Id.* at 18–19. Such a docket would consist of two filings, with the LDAC component filed August 1 and the COG component filed September 1, and a single hearing on the merits of both adjustments to be held in late October. *Id.* Liberty also stated that there are no “one-off” issues in this coming year, so that schedule should be sufficient. *Id.*

The OCA stated that it stood by its letter filed on December 27, 2021, while noting that the OCA is prepared to accommodate with whatever process the Commission orders. *Id.* at 19–20. The DOE agreed with Liberty, stating that it supports testing the format outlined in the December 27, 2021, report for the autumn of 2022, and that it believes a prehearing conference could be accommodated in such dockets. *Id.* at 20–24. The DOE proposed new structures and filing deadlines associated with mid-season COG adjustments, generally requiring 35 days’ notice before any proposed COG rate change becomes effective. *Id.* The DOE also raised other matters relating to summer forecasts, the COG mechanism generally, and another utility’s COG mechanism. *Id.*

Members of the Commission raised issues relating to the compressed timeframe between a late October hearing and the deadline to issue an order. *Id.* at 27. The parties and the Commission discussed potential changes to the effective date of rate changes, separating the LDAC and COG proceedings into separate dockets each year, and tariff changes that would be necessary to implement such structural changes. *Id.* at 27–33.

The Commission ultimately requested two proposals for future LDAC/COG adjustments from the parties. The first proposal would keep the annual LDAC and COG adjustments together, including a proposed hearing time. The second proposal would put the LDAC and COG adjustments on separate tracks, including whatever tariff amendments would be necessary. *Id.* at 43–45. All parties agreed, and Liberty stated that it intended to make its 2022 LDAC filing on August 1, 2022. *Id.* at 46–50.

IV. OTHER MATTERS

The DOE raised an additional issue in Docket No. 20-105 related to rate case expenses. The DOE stated that its recommendation on rate case expenses in Docket No. DG 20-105 is forthcoming and would be filed by July 27, 2022. *Id.* 38–40. The DOE confirmed that rate case expenses are the only outstanding issue in Docket No. DG 20-105. *Id.* Liberty stated that the DOE’s plan was agreeable. *Id.* at 39.

V. COMMISSION ANALYSIS

This prehearing conference order memorializes the areas of agreement, comments on the process to be used in evaluating Liberty’s LDAC/COG adjustments and establishes filing deadlines related to the DOE’s review of the 2021–2022 RDAF from Docket No. 21-130 and rate case expenses from Docket No. DG 20-105.

Issues 1 and 2 resulted in an agreement between the parties that, to the extent there is a need to further investigate the RDAF applied in 2021-2022 or to further refine tariff language, such review may occur in Docket No. DG 22-041. We agree that this is a reasonable resolution to the remaining questions concerning Issues 1 and 2. Furthermore, with respect to reaching finality as to Issue 1, and the Commission’s review of the RDAF applied between November 1, 2021 and October 31, 2022, the DOE is directed to file an update on its investigation into this issue no later than September 1, 2022.

With respect to Issue 3, and the general topic of filing future COG/LDAC adjustments for adjudicative review, we are mindful of several factors: 1) under current convention, these adjustments are scheduled take effect November 1, 2022; 2) Liberty largely complied with its intent to follow the plan outlined in the December 27, 2021 report by filing proposed LDAC adjustments on August 2, 2022; 3) Liberty stated that there were no “one-off” issues in this year’s LDAC filing; and 4) that certainty over the COG/LDAC adjustment process for 2022 adjustments is now necessary in order for the Commission to provide an adequate and fair adjudicative review of this year’s proposed adjustments. For the purposes of Liberty’s 2022 COG/LDAC adjustment proposals, we signal our intent to continue to utilize a unitary docket with a single hearing date for both the LDAC and COG adjustments. Liberty’s 2022 COG filing shall be due September 1, 2022. The Commission will place a hold on its calendar on October 25, 2022 for a single hearing addressing 2022 LDAC and COG adjustments, for rates effective November 1, 2022. To the extent Liberty proposes a procedural schedule that is not assented to, parties wishing to be heard on the proposed procedural schedule are welcome file a written response and/or request a prehearing conference pursuant to the Commission’s rules of practice and procedure, N.H. Admin. R., Ch. Puc 200.

With respect to future LDAC/COG adjustment filings, we still expect the parties to bring forward two proposals for the adjudication of COG/LDAC charges for future years as summarized herein above by December 31, 2022.

Finally, with respect to rate case expenses in Docket No. DG 20-105, it is imperative that the DOE file its recommendation promptly, leaving adequate time for Commission review if recovery of such expanses is to commence through a surcharge in the LDAC for effect November 1, 2022. As the July 27, 2022 filing date for the

DOE's recommendation has passed, we therefore direct the DOE to file its recommendation as soon as possible, but not later than August 12, 2022, in order to facilitate a prompt resolution of this issue.

Based upon the foregoing, it is hereby

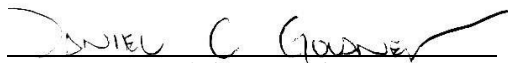
ORDERED, that the DOE is authorized to conduct discovery on Liberty's 2021-2022 RDAF in Docket No. 22-041; and it is

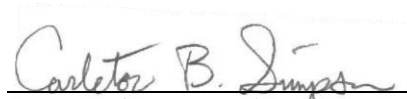
FURTHER ORDERED, that the DOE shall update the Commission on the status of its investigation into the Liberty's 2021-2022 RDAF by September 1, 2022; and it is

FURTHER ORDERED, that Liberty, the DOE, and the OCA shall propose two tracks for the adjudication of COG/LDAC charges for future years as discussed at the prehearing conference and summarized herein above by December 31, 2022; and it is

FURTHER ORDERED, that the DOE shall file its recommendation on rate case expenses in Docket No. DG 20-105 as soon as possible, but not later than August 12, 2022.

By order of the Public Utilities Commission of New Hampshire this fourth day of August, 2022.


Daniel C. Goldner
Chairman


Carleton B. Simpson
Commissioner

Service List - Docket Related

Docket# : 20-105

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