

**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

Order Approving Settlement Agreement and Recovery of Rate Case Expenses

ORDER NO. 26,808

April 28, 2023

In this order, the Commission approves a settlement agreement relating to Liberty Utilities (EnergyNorth Natural Gas) Corp., d/b/a Liberty's (Liberty) request to recover rate case expenses. Pursuant to that agreement, Liberty is authorized to collect a total of \$804,289 through the Rate Case Expense (RCE) Factor of the Local Distribution Adjustment Charge (LDAC). Of this amount, \$680,770 was previously authorized and is currently being collected, however the remaining amount of \$123,519 is now approved for recovery through an \$0.0111 increase to the RCE Factor effective on June 1, 2023.

I. PROCEDURAL HISTORY AND BACKGROUND

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 LDAC beginning November 1, 2021. This amount had been agreed to in a settlement agreement approved in part by Order No. 26,505 (July 30, 2021), subject to audit and update for actual invoices.

On September 1, 2021, Liberty made its LDAC filing in Docket No. DG 21-130, seeking to recover \$785,177 in rate case expenses between November 1, 2021 and October 31, 2022. DG 21-130, Exhibit 2 at Bates 126, Line 3.

In Order No. 26,541 at 8-9 (October 29, 2021), the Commission did not approve recovery of these rate case expenses, noting that the Department of Energy (DOE) had not yet submitted a recommendation concerning rate case expense recovery and the expenses had not yet been determined to be just and reasonable, and in the public interest, and otherwise conforming to the requirements of Chapter Puc 1900.

On August 3, 2022, Liberty filed its 2022 LDAC rate adjustment proposal in Docket No. DG 22-045. Among other things, Liberty sought authorization to collect \$879,555 in rate case expenses from Docket No. DG 20-105 through its LDAC charge between November 1, 2022 and October 31, 2023.

On August 12, 2022, the DOE filed its recommendation and audit report concerning the Company's recovery of \$785,177 in rate case expenses as initially sought in Docket No. DG 21-130. The DOE recommended that the Commission disallow recovery of \$95,490 in expenses.

On September 8, 2022, Liberty filed a response to the DOE recommendation. Liberty disputed the DOE's recommended disallowances, and identified additional rate case expenses that had not been audited by the DOE. Liberty also requested approval of \$848,198 in rate case expenses, including the amounts recommended for disallowance by the DOE and new expenses, through the LDAC in Docket No. DG 22-045.

On September 29, 2022, the Commission approved the recovery of \$680,770 in uncontested and audited rate case expenses through the LDAC between November 1, 2022 and October 31, 2023. This figure excluded contested or unaudited amounts, without making a final determination on those requests for recovery.

On January 13, 2023, the DOE filed a recommendation and updated audit report addressing the previously unaudited expenses. The DOE recommend the Commission disallow recovery of an additional \$37,997 of costs.

On February 10, 2023, Liberty filed a response to the DOE's January 13, 2023, recommendation. Liberty disputed the DOE's recommended disallowances and raised an issue related to whether or not the operation of the LDAC rate mechanism under Liberty's approved tariff is inconsistent with N.H. Code Admin R. Puc 1907.01(f)'s prohibition of interest charges on rate case expenses when rate case expenses are collected through the LDAC.

On April 19, 2023, Liberty filed a Settlement Agreement on Rate Case Expenses on behalf of itself and the DOE.

On April 20, 2023, a duly noticed hearing on the contested rate case expenses was convened as scheduled, and the Settlement Agreement on Rate Case Expenses was presented by Liberty and the DOE. No other parties appeared at this hearing.

At hearing, Liberty's witness, Erica Menard, Director, Rates and Regulatory Affairs, testified in support of the Settlement Agreement. Exhibits 61 through 64 were admitted into evidence, consisting of audit reports, the September 8, 2022 letter from Liberty, and the Settlement Agreement. Both Liberty and the DOE supported the Commission's approval of the Settlement Agreement as just, reasonable, and serving the public interest.

The requests for recovery of rate case expenses, audit reports, DOE recommendations, Settlement Agreement, and other docket filings are posted on the Commission's website at: <https://www.puc.nh.gov/Regulatory/Docketbk/2020/20-105.html>.

II. SUMMARY OF SETTLEMENT AGREEMENT

Pursuant to the terms of the Settlement Agreement, Liberty will be allowed to collect \$804,289 in rate case expenses, consisting of the following expenses by vendor:

Vendor	Expense ¹
Concentric Energy Advisors, Inc.	\$48,381
FTI Consulting	\$385,965
Keegan Werlin LLP	\$142,493
ScottMadden	\$34,215
Management Applications Consulting	\$33,245
Court Reporter	\$1,743
Customer Notice	\$46,241
Legal Notices	\$466
Printing	\$159
Department of Energy Expenses	\$98,452
Office of the Consumer Advocate Expenses	\$12,923

According to the Liberty and the DOE, the staff audit confirmed the appropriateness of expenses under the criteria contained in Puc chapter 1900 and the just and reasonable rates standard.

Additionally, the Settlement Agreement includes prospective changes to Liberty's tariff designed to ensure that the RCE Factor of the LDAC does not result in interest expense being applied to balances based on rate case expenses after becoming a part of the rate mechanism. That tariff change consists of adding the text "No carrying charges shall be included in the RCEF beginning June 1, 2023" to NHPUC No. 11 tariff page 41. The new language is intended to bring Liberty's tariff into compliance with Puc 1907.01(f)'s prohibition of interest charges on rate case expenses.

¹ Figures do not sum due to rounding.

III. COMMISSION ANALYSIS

Unless precluded by law, informal disposition by stipulation, settlement agreement, consent order or default may be made of any contested case at any time prior to the entry of a final decision or order. RSA 541-A:31, V(a). Pursuant to Puc 203.20(b), the Commission shall approve the disposition of any contested case by stipulation, settlement, consent order or default, if it determines that the result is just and reasonable and serves the public interest.

The Commission treats prudently incurred rate case expenses as a legitimate cost of service appropriate for recovery through rates, consistent with Puc chapter 1900. Puc 1904.02 sets forth the criteria for determining allowed rate case expenses, including that such expenses are consistent with the chapters' requirements, the costs are actual, known, and measurable expenses associated with a full rate case proceeding, and that recovery of the expenses is just, reasonable, and in the public interest.

The Commission held a duly notice hearing in this matter on April 20, 2023, heard witness testimony, and reviewed the exhibits. We find that the requirements of Puc ch. 1900 and Puc 203.20(b) have been met, and that the Settlement Agreement is just and reasonable and serves the public interest. Accordingly, the Settlement Agreement is approved.

Based upon the foregoing, it is hereby

ORDERED, that the Settlement Agreement on Rate Case Expenses, marked as exhibit 64, is APPROVED; and it is

FUTHER ORDERED, that Liberty Utilities (EnergyNorth Natural Gas) Corp., d/b/a Liberty is authorized to increase the RCE Factor by \$0.0111 per therm, effective June 1, 2023 through October 31, 2023; and it is

FUTHER ORDERED, that the proposed changes to NHPUC No. 11 tariff pages 41, 87, 88, 89, and 101 are approved; and that Liberty Utilities (EnergyNorth Natural Gas) Corp., d/b/a Liberty shall file shall file properly annotated tariff pages in compliance with this order, as required by N.H. Code Admin. Rules Puc 1603, no later than 15 days from the issuance of this order, or May 15, 2023.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of April, 2023.



Daniel C. Goldner
Chairman



Carleton B. Simpson
Commissioner

Service List - Docket Related

Docket#: 20-105

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