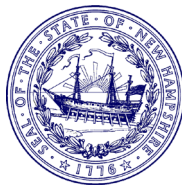


STATE OF NEW HAMPSHIRE

COMMISSIONER
Jared S. Chicoine

DEPUTY COMMISSIONER
Christopher J. Ellms, Jr.



DEPARTMENT OF ENERGY
21 S. Fruit St., Suite 10
Concord, N.H. 03301-2429

TDD Access: Relay NH
1-800-735-2964

Tel. (603) 271-3670

FAX No. 271-1526

Website:
www.energy.nh.gov

June 16, 2022

Daniel C. Goldner, Chairman
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301-2429

RE: DE 21-073 Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty
Calendar Year 2020 Annual Storm Fund Report, *DOE Report and Recommendation*

Dear Chairman Goldner:

By way of introduction, on April 1, 2021, Liberty Utilities (Granite State Electric) Corp., d/b/a Liberty ("Liberty," or "the Company") filed its 2020 Annual Storm Fund Report (2020 ASFR) in the above referenced docket. In that report, Liberty seeks to recover costs related to what the Company describes as one major storm event and four pre-staging storm events from the Company's Major Storm Fund (MSF) account. Liberty states the total cost of the five identified events is \$927,195. There is no rate change triggered by this filing.

The Department of Energy (DOE)'s Enforcement's Audit Division issued its Final Audit Report (Audit Report) on Liberty's 2020 ASFR on January 20, 2022. See Attachment 1 to this recommendation. That report presents the Audit Division's detailed audit review for accounting and proper charging of Liberty's storm related costs associated with the one (1) storm event and the four (4) pre-staging events for forecasted storms that did not materialize as major storms.

DOE's Regulatory Division has reviewed both Liberty's 2020 ASFR and the Audit Report, and held further discussions with the DOE Audit Division. As explained in more detail below, DOE has determined that the costs related to the single storm event identified for recovery in the Company's Report do not qualify for recovery through the MSF as the storm *does not* meet the criteria for qualifying pre-staging events or a qualifying major storm event. Accordingly, DOE recommends that pre-staging costs and storm costs related to Tropical Storm Isaias, totaling \$340,882, be disallowed for cost recovery from the Company's MSF. DOE has determined that the four pre-staging events *do* meet the criteria for recovery of pre-staging costs, notwithstanding the Audit Report's recommendation to disallow \$9,457.90 related to April 13, 2020 Windstorm pre-staging costs. Therefore, DOE recommends that the four pre-stating event costs be recovered from the MSF account in full.

The DOE Regulatory Division also agrees with the Audit Report's conclusion that Liberty should terminate its practice of capitalizing transportation depreciation through the burden rate in future

storm cost filings. This practice is inconsistent with FERC requirements. The Company should make adjustments to its 2019 ASFR and 2020 ASFR filings, and comply with all applicable FERC requirements in future Storm Fund Report filing.

Finally, DOE recommends that Liberty calculate and submit--for DOE comment and Commission review and approval --a Storm Recovery Adjustment Factor (SRAF) rate, i.e., implement an SRAF rate to return to ratepayers an over-collection balance of (\$1,861,474), *see* Audit Report at 19, and possible additional adjustments. The SRAF is currently set at \$0.00/kWh. *See* Company's Tariff Original Page 26; *see* "IV DOE Recommendation Summary" pp. 6-7, below.

DOE notes that whether certain event(s) are "qualifying major storm event(s)" based on the meaning of "concurrent troubles" is also at issue in Docket No. DG 06-107, as are issues regarding the application of FERC requirements referenced here. Docket No. DG 06-107 and Docket No. DG 06-107 (regarding the 2019 ASFR) have been consolidated and scheduled for hearing on July 21, 2022 at 9:00 a.m. *See* Procedural Order May 23, 2022; *see also* Secretarial Letter dated April 23, 2021; Liberty Motion for Rehearing (May 21, 2021); Secretarial Letter dated June 18, 2021 (suspending Secretarial Letter dated April 23, 2021) and related pleadings in this docket.

I. Background

The MSF exists to provide recovery for qualifying major storms and qualifying pre-staging events.

A. Qualifying Major Storms

Qualifying major storms meet certain defining criteria as stipulated in the Parties' Settlement Agreement as adopted and approved in Order No. 24,777 (July 12, 2007) (Dkt. No. 06-107). Specifically,

[a] major storm is defined as a severe weather event or events causing 30 concurrent¹ troubles (i.e., interruption events occurring on either primary or secondary lines) and 15 percent of customers interrupted or 45 concurrent troubles.

Order No. 24,777 at 13-14. A storm that meets the above criteria qualifies as a "major storm" and therefore costs related to pre-staging and/or storm recovery may be recovered through the MSF.

DOE notes that "troubles" is a term of art; not all service interruptions qualify as "troubles." Qualifying troubles must occur on a primary or secondary line.² *Id.* Further,

¹ The applicable definition of "concurrent" is "operating or occurring at the same time." *See* Merriam-Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/concurrent>.

² Typical primary line voltages include 4,160 volts, 4,800 volts, 12,470 volts, 13,200 volts and 34,500 volts. Secondary lines are located lower down on utility poles, usually below transformers. Typical secondary voltages are between 120 and 480 volts. As compared to a single-service line, secondary lines generally serve more than one customer, are located in the public roadway, and often require more resources for repair.

qualifying troubles must occur concurrently and in sufficient number. In the alternative, the number of concurrent troubles may be lower so long as an additional threshold percentage of customers impacted by the outages is also met. By definition, an interruption event on a single-service line that connects a single electric utility customer to a secondary distribution line is *not* a qualifying “trouble.” See Order 24,777 at 13-14.

B. Qualifying Pre-Staging Events

The criteria for cost recovery from the MSF for a storm pre-staging event were established in the Settlement Agreement in Dkt. No. DE 13-063, filed January 23, 2014, and authorized and approved in Order No. 25,638 at 13 (March 17, 2014). That Order states:

The Company shall be entitled to recover planning and preparation activities in advance of severe weather if the weather forecast for the event shows a Schneider Electric Event Index (“EEI”) level of 3 or greater with a high probability of occurrence.

The EEI, a prediction level of a storm’s impact, is provided to Liberty by DTN,³ a weather forecasting and analysis service provider. “The activities for which the Company may seek recovery include pre-staging of crews, standby arrangements with external contractors, incremental compensation of employees, and other costs that may be incurred to prepare for a qualifying major storm.” Order No. 25,638 at 13.

II. DOE’s Analysis

On January 20, 2022, the DOE Division of Enforcement Audit Staff provided its Final Audit Report presenting its detailed audit review for accounting and proper charging of Liberty’s storm related costs associated with the one (1) storm event and the four (4) pre-staging events for forecasted storms that did not materialize as major storms. Liberty’s total reported costs for the single storm event and the four pre-staging events were \$927,195.

The Final Audit Report included three recommendations documented by DOE Audit regarding the storm related charges. These were, as identified by the Audit Report:

1. A reduction in charges of \$9,457.90 related to the April 13, 2020 windstorm event; (Audit Report Issue #1 at 20-24, 9-13)
2. A reduction in charges of \$340,881.52 for the Tropical Storm Isaias event which did not meet major storm determination criteria; (Audit Report Issue # 2 at 25-26, 13-15)
3. A recommendation related to the Company’s treatment of transportation equipment depreciation charges in the burden rate, and the application thereof. The Audit Report states that the method used by Liberty is not in compliance with FERC requirements and the the Company should modify its accounting methodology on this issue. Audit Report at 5. (Listing unresolved issues from Liberty’s 2019 ASFR).

³See <https://www.dtn.com/>. It is the understanding of the DOE that DTN weather services (formerly Telvent DTN) acquired this line of business from Schneider Electric (<https://www.se.com/ww/en/>) in 2017. It is DOE’s understanding that the “EEI” referenced in the Settlement Agreements as “Schneider EEI” is now the EEI rating provided by the DNT Service.

The DOE Regulatory Division has reviewed and agrees with Audit Division recommendations #2 and #3 above for the reasons explained therein and summarized below.

The DOE Regulatory Division has considered the Audit Division's Recommendation [a/k/a Issue] #1, i.e., that a reduction of \$9,457.90 be made. The Regulatory Division also considered the Audit Division's comment urging the Company and Regulatory Staff to consider "whether or not the intent of the determination for pre-staging . . . events should take place on a system-wide or a more locational basis." Audit Report at 24; *see* Audit Report at 20-24 Company Comment (disagreeing with Audit's reduction). In conjunction with further conversation with the Audit Division, in the opinion of the Regulatory Division the intent for pre-staging events should reasonably take place on a system-wide basis. Accordingly, DOE recommends that pre-staging costs for the April 13, 2020 windstorm event should be recovered from the MSF in full, resulting in a total recovery of \$114,370.00 for that event. As explained below, DOE therefore recommends recovery from the MSF for all four pre-staging events the Company has identified, and disallowance of costs related to the storm event.

On the basis of the Regulatory Division's review, DOE also recommends that the Company calculate and submit for DOE comment, and Commission review, a Storm Recovery Adjustment Factor (SRAF) rate to return to ratepayers the current over collection balance of (\$1,861,474). (This over collection balance was reported in the DOE Audit report as of 12/31/2020). The SRAF should also include any additional MSF disallowances and adjustments resulting from the orders in DG 06-107 and in the instant docket, following July hearings. The SRAF rate is currently set at \$0.00/kWh and can be adjusted in accordance with the Company's Tariff Original Page 26. As noted in the Audit Report, there has not been an SRAF rate since the DE 13-063 rate case order, Order No. 25,638, was issued in 2014. Given the sizeable over collection, DOE recommends that the over collection be returned to ratepayers through an updated SRAF rate.

DOE recommendations on the major storm and pre-storm events are discussed in further detail in Section III below. The Audit Report also includes additional descriptions of individual storm events and storm pre-staging events. *See* Attachment 1 (Audit Report).

III. 2020 Storm and Pre-staging Events in Chronological Order

A. April 13, 2020 Windstorm Pre-staging Costs \$114,370.

Liberty stated that its weather forecast service forecast the potential for significant wind gusts between 45-60 mph in the Salem area, and between 45-55 mph in the Lebanon and Charlestown areas. Testimony of Strabone and Tebbetts (April 1, 2021) (hereinafter "Strabone and Tebbetts") at 006-008. The details provided included an EEI of level 3 with high confidence in the Salem area and EEI of level 2 with high confidence in the Lebanon and Charlestown areas. *Id.* at Bates 035; Audit Report at 9-13.

As described above, in order for pre-staging expenses to be eligible for collection through the MSF, specific storm forecast conditions must be met. Those conditions, again, are that an EEI Level of 3 or greater with high confidence must be forecast. In the case of this weather

event, those specific conditions were met for the Salem forecast area. Applying the EEI criteria on a statewide basis, as discussed *supra*, if one of the three forecast areas meets the specific weather conditions specified in the approved Settlement Agreement, then in the opinion of the DOE that is sufficient to permit recovery of the storm specific pre-staging costs for all three of the Company's service regions for that specific storm. Accordingly, DOE recommends recovery from the MSF in the amount of \$114,370.

B. August 5, 2020 Tropical Storm Isaias Costs \$340,882.

Liberty stated that the Company initially received information on July 30, 2020, that Tropical Storm Isaias had formed in the Caribbean with the potential to develop into a hurricane, make landfall in the Southeast and travel up to the Northeast, potentially impacting customers in the Company's service territory. Strabone and Tebbetts at 9, 35. Specifically, "DTN forecasted [an] EEI level 2 with medium confidence for sustained winds of 20 to 35 mph and gusts of 38 to 55 mph for the evening of August 4, 2020, through the early morning of August 5, 2020..." *Id.* at 9.

In the opinion of DOE, this forecast is not sufficient to categorize the storm as major in order to qualify any pre-staging costs as eligible for collection through the MSF, consistent with the pre-staging standard. An EEI of 3 was required and was not reached.

Liberty states that this storm qualifies as a major storm because the Company reported 67 outage events during the course of the storm. Strabone and Tebbetts at 11. DOE disagrees with the Company because this storm event did not meet the "concurrent troubles on primary or secondary lines" requirement. As stated above,

[a] major storm is defined as a severe weather event causing 30 concurrent troubles (i.e., interruption events occurring on either primary or secondary lines) and 15 percent of customers interrupted or 45 concurrent troubles.

Order No. 24,777 at 13-14.

The Company's 2020 ASFR provided details of the 67 "outage events" that occurred during the total period of the storm event. DOE reviewed the 67 events and identified 14 of them as related to single-service line connections, i.e., a single line running from a secondary line to an individual customer. Therefore, these 14 events were removed from the further outage analysis, leaving 53 "outage events."

Next, DOE examined and analyzed the timeline details of the remaining 53 outage events and determined that the maximum number of events occurring at any one point in time was 22. *See* Attachment 2 (Chart). In other words, during the storm event, there were a maximum of only 22 concurrent outage events. This number is fewer than the 30 events specified in the definition of major storm. Therefore, in the opinion of the DOE, Tropical Storm Isaias does not meet the definition of a major storm, and the \$340,881.52 of storm costs ought not be collected from the MSF. *See* Audit Report at 13-15, 25.

The DOE notes that issues regarding whether events qualify as major storms identified above – a single service line not counting as an interruption event as it is neither a primary or secondary line, and the outage analysis of how many events occurred “concurrently” – are matters on which DOE and the Company have also disagreed in reference to Liberty’s 2019 ASFR filed in DG 06-107. These issues are among those to be adjudicated in hearings currently scheduled for July 21, 2022. *See* Procedural Order (May 23, 2022).

C. December 5, 2020 Nor’easter Pre-staging Costs \$240,609

Liberty stated that it received weather forecasts for heavy wet snow in the Salem area on December 5, 2020. The reports from DTN document an EEI Level of 3 with high probability for significant snowfall in the Salem area. Strabone and Tebbetts at 12-13, 48. This forecast means the storm event qualified for pre-staging costs to be collected through the MSF. The 2020 ASFR also indicated that the Company did not experience any outages as a result of the storm event. DOE recommends that the audited pre-staging costs for this storm event in the amount of \$240,609, be recovered through the MSF. *See* Audit Report at 15-16.

D. December 16, 2020 Winter Storm Gail Pre-staging Costs \$134,854

Liberty’s 2020 ASFR provided details showing an EEI Level of 3 with high confidence for significant snow in all three of the Company’s main service areas – Salem, Lebanon, and Charlestown - beginning late on December 16, 2020. Strabone and Tebbetts at 16-19, 52. The forecast for significant heavy wet snow did not impact the areas as forecast, and the Company did not experience outages as a result of the Storm. The forecast details meet the necessary criteria for pre-staging costs to be recovered through the MSF. DOE recommends that the audited pre-staging costs in the amount of \$134,854, be approved for recovery through the MSF. *See* Audit Report at 16-17.

E. December 25, 2020 Windstorm Pre-staging Costs \$96,480.77

Liberty’s 2020 ASFR provided information documenting that the forecast for this weather event had an EEI Level 3 with high confidence for wind gusts in excess of 50 MPH with heavy rain in the Salem area. Strabone and Tebbetts at 20-24, 56. The DTN forecast for the Lebanon and Charlestown areas indicated milder wind gusts with high confidence. In the opinion of the DOE however, as stated above, application of the EEI criteria on a statewide basis means that if one of the three forecast areas meets the specific weather conditions, that is sufficient to permit recovery of the storm specific pre-staging costs for all three of the Company’s service regions for that specific storm. The Company did not experience any outages during the storm event. Nonetheless, the DTN forecast qualifies the pre-staging costs for recovery through the MSF. DOE therefore recommends that that the audited pre-staging costs be recovered in the amount of \$96,480.77 through the MSF. *See* Audit Report at 17-18

IV. DOE Summary Recommendation

The DOE has reviewed and investigated the Company’s 2020 ASFR received on April 1, 2021. The DOE respectfully makes the following recommendations to the Commission regarding

major storms and pre-staging costs related to storm events identified by Liberty in its 2020 ASFR and which Liberty seeks to recover from the MSF:

1. Disallow \$340,882 in Storm costs related to Tropical Storm Isaias because that storm did not meet the major storm criteria, and did not meet the pre-staging criteria outlined in Order No. 24,777 and Order No. 25,638.
2. Approve pre-staging costs to be recovered from the MSF in the amounts of \$114,370 for 4/13/2020 Windstorm; \$240,609 for 12/5/2020 Windstorm; \$134,854 for 12/16/2020 Winter Storm; and \$96,481 for 12/25/2020 Windstorm. (Total pre-staging costs for these four 2020 events are \$586,313.48.)
3. Direct the Company to modify its treatment of transportation equipment depreciation charges in the burden rate to comply with FERC requirements, make adjustments to the 2019 ASFR and 2020 ASFR accordingly, and to comply with all applicable FERC requirements in future AFSRs. *See* Audit Report at 5 (stating that the method used by Liberty is not in compliance with FERC requirements).
4. Direct the Company to calculate and submit for approval a Storm Recovery Adjustment Factor (SRAF) rate to return to ratepayers the current over collection balance of (\$1,861,474) as of December 31, 2022, as reported in the DOE Audit Report, to also include any additional MSF disallowances and adjustments resulting from Commission decisions in DG 06-107 and the instant docket following hearings. The SRAF rate is currently set at \$0.00/kWh and can be adjusted in accordance with the Company's Original Tariff Page 26,

Respectfully Submitted,

Mary E. Schwarzer

Mary. E. Schwarzer
Staff Attorney/Hearings Examiner
Mary.E.Schwarzer@energy.nh.gov

Cc:

Tom Franz, Director, Division of Regulatory Support
Elizabeth Nixon, Director, Electric
Stephen Eckberg, Utility Analyst IV