

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

DE 21-073

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

2020 Annual Storm Fund Report

**DEPARTMENT OF ENERGY'S REQUEST TO ENLARGE TIME TO INVESTIGATE
2020 ANNUAL STORM FUND REPORT, AND FOR WAIVER OF LATE FILING DUE TO
ADMINISTRATIVE AMBIGUITY**

NOW COMES the New Hampshire Department of Energy (Energy) and in response to the Commission's *Procedural Order Re: Deadline for Response to 2020 Annual Storm Fund Report* (December 1, 2021) and asks the Commission to grant Energy additional time in which to investigate Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty (Liberty or the Company)'s 2020 Annual Storm Fund Report (2020 ASFR) filed on April 1, 2021.

In support of this motion, Energy states as follows:

1. Liberty filed its 2020 ASFR on April 1, 2021.
2. On December 1, 2021, the Commission issued an order, giving Energy until January 4, 2022, to object to Liberty's 2020 ASFR or to request additional time to investigate the filing.
3. This is the first ASFR review that will be done by Energy since July 1, 2021, when Energy became a separate department, with Energy staff (formerly PUC Staff) fulfilling a separate and distinct function. See House Bill 2 (2021).
4. In the past, the Commission's Audit Division Staff would audit the Company's ASFR and issue an audit report. Thereafter, the Commission's Electric Division Staff would review the audit report (for the first time) and engage in discussions with the Company. Formal data request might be issued. The Commission Staff review would result in a *Staff Recommendation* filed with the Commission. Generally, for other utilities, no formal procedure was either proposed or set prior to Commission Staff filing a letter

or recommendation into the docket. National Grid / Liberty dockets may more often result in procedural schedules. *See, e.g.*, Dkt. No. DE 06-107 GSE Tabs 3(2006), Tab 36 Order No. 24,777 dated July 12, 2007, Tab 165 (*Puc Staff Review* dated July 24, 2017, regarding settlement agreement,) Tabs 166-169; *compare with* DE 18-058, DE 19-050, DE 19-105 and DE 20-062 (Eversource); Dkts. DE 15-078, DE 19-040 and No. DE 20-023, (UES).

5. Energy proposes to keep the general procedural steps similar to that past practice. Energy's Audit Division will review the Company's filing, raise any questions or issues with the Company, and issue an audit report. Thereafter, Energy's Regulatory Support Division will review the audit report and engage in follow-up discussions with the Company. Formal data requests may be issued if deemed warranted. Energy will then file its Report (formerly characterized as a "Recommendation") into the docket. Energy notes that review of Liberty's 2019 ASFR remains pending. *See* Dkt. No. DE 19-106, September 30, 2021 Letter from Chair Martin, postponing the October 4, 2021 hearing scheduled in Order No. 26,514 (September 1, 2021).

6. It is currently anticipated that Energy's review and investigation will conclude by March 29, 2022 and its final Report will be filed thereafter. Energy's report may propose further procedural steps based on the findings of the review and investigation. Energy notes that litigated matters at issue in pending Liberty Docket DE 19-106 may also be at issue in this docket.

7. Accordingly, Energy asks for additional time in which to complete its review and investigation of Liberty's 2020 ASFR.

8. There is no procedural schedule in place at this time. However, for the information of the Commission in evaluating this request, Energy states as follows:

- a. If the Commission were to deny this request for additional time to review and investigate the 2020 ASFR, Energy would be caused undue hardship. Energy's Audit Division has been extremely busy due to the press of other matters in other dockets, and the audit report has not been completed as of this date. It would be challenging and inconvenient

if the Audit Division and/or the Regulatory Support Division were required to expedite review and investigation of the Company's 2020 ASFR on a more accelerated timeline;

- b. Liberty does not object to Energy's request for additional time to review and investigate its 2020 ASFR.

Compare with N.H. Code of Administrative Rules Puc 202.04.

9. If Energy's review and investigation of Liberty's 2020 ASFR is completed sooner than anticipated, Energy's final report will be filed promptly thereafter.

10. Undersigned counsel was assigned to this -- and two other utility storm report dockets -- and filed an appearance in the first week of December. At that time, the Commission's procedural order, which had already been issued, was not in the Virtual File Room docket. Undersigned counsel checked the docket periodically, however did not see the Commission's Order until the evening of January 4, 2022, when undersigned counsel made a filing to update the service list in this docket. Accordingly, this filing is one day late. Therefore, Energy asks the Commission to waive late filing.

11. Waiver is appropriate because compliance with this deadline would be inapplicable (impossible) given the circumstances, and therefore waiver will serve the public interest. In addition, waiver will not disrupt the orderly and efficient resolution of matters before the commission. Energy's one-day filing delay will not change the parties' work in this docket, and will not harm the Commission's review of the 2020 ASFR. *See Puc 201.05.*

12. Liberty, by and through counsel, Michael Sheehan, does not object to Energy's request for waiver of late filing.

WHEREFORE, Energy respectfully requests that the Commission:

- A. Grant Energy's request to enlarge the time for its review and investigation of Liberty's 2020 ASFR as described in this motion;
- B. Grant Energy's request for waiver of late (by one-day) filing pursuant to Puc 201.05; and

C. Grant such other and further relief as is equitable and just.

Respectfully submitted,

Date: January 5, 2022

/s *Mary E. Schwarzer*

Mary E. Schwarzer, Esq.
Staff Attorney/Hearings Examiner
603.271.6030
Mary.E.Schwarzer@energy.nh.gov

Certificate of Service

I hereby certify that on January 5, 2022, a copy of this objection has been electronically forwarded to the service list.

Mary E. Schwarzer

Mary E. Schwarzer