



Michael J. Sheehan, Esq.
Director, Legal Services
603-724-2135
Michael.Sheehan@libertyutilities.com

July 27, 2022

Via Electronic Mail Only

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

**Re: DE 22-035 Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty
Request for Step Adjustment**

Dear Chairman Goldner:

On behalf of Liberty Utilities (Granite State Electric) Corp., d/b/a Liberty, I write in response to the July 21 letter from the Department of Energy which recommends removal of the following three projects from the step adjustment at issue in this docket: (1) Install Service to Tuscan Village, (2) Golden Rock Feder 19L2, and (3) LED Street Light Conversion.

As Liberty stated during the hearing, the Tuscan Village service and the Golden Rock 19L2 Feeder were both specifically listed in the Commission-approved Settlement Agreement as appropriate projects for step increases. And both were labelled "growth" projects. See Exhibit 37 in Docket No. DE 19-064 at Bates 29 ad 31, attached.

The work on these two projects was completed in 2021 and was thus included in this docket where the Company seeks approval of the third step increase.

The Department's objection to these projects is that they are "growth" projects, allegedly excluded from recovery pursuant to other language in the Settlement Agreement. Liberty disagrees.

As provided for in the Settlement Agreement, as part of the filing for the 2021 step increase related to 2020 projects the Company included a list of projects that it intended to

complete in 2021 for recovery in the third step increase, addressed in this docket. See Exhibit 65 in DE 19-064 at Bates 189. Both the 19L2 feeder and the Tuscan Village service were carried forward and put into the list of 2021 projects. It was appropriate for the Company to include them in this proceeding given the fact that the Commission had previously approved their inclusion for recovery through step adjustments.

The Settlement Agreement's prohibition of "growth" projects in this third step adjustment only applies to any new projects that the Company completed in 2021: "Such 2021 capital additions shall be similar in nature to the 2019 and 2020 additions listed on Attachments 1 and 2 and shall not include growth related additions." Exhibit 37 at 5. The projects at issue here are not "similar in nature" to the 2019 and 2020 projects, they *are the same* projects previously approved for inclusion.

Neither the Commission nor any party objected to the list of proposed 2021 projects for this step through the course of litigating the second step.

Indeed, the Department did not raise an issue with including these two projects until its oral recommendation at hearing, when it first asked to remove these projects as non-qualifying "growth" projects. The failure to timely raise the issue during the last step proceeding or earlier in this docket deprived the Company of the opportunity to substitute other projects for this third step increase, a process that was also in the Commission-approved Settlement Agreement. Similarly, a Commission order denying recovery for these projects in this step increase -- projects the Commission previously indicated were appropriate candidates for step increases, and projects the Commission was previously on notice that the Company would include in this third step increase -- would also deprive the Company the opportunity to substitute other projects that would appropriately fall within the approved \$1.8M cap.

The lesson learned from an order removing these projects from the third step is that the Company should have included every 2021 project in this step filing to ensure the unexpected removal of one or two projects would not jeopardize recovery up to the approved cap. Such a filing would be voluminous, would require unnecessary review of projects not ultimately included in the step, and would thus be a burden to all. To avoid that burden here, Liberty provided the specific project lists in the settlement agreement and during the process of reviewing the second step increase, as described above. An order following the Department's recommendation will likely compel the Company to make the over-inclusive filing in the future.

Note that the Company presented sufficient evidence for the Commission to find all the project costs to be prudent and that there was no argument to the contrary.

For the LED project, the Company informed the Commission that this project is being reviewed by the Department's audit division. As has been the practice in the past, the Company suggests that the Commission approve recovery of these costs and, should any adjustment be necessary as a result of the audit, the Company can make an appropriate adjustment, with retroactive effect, as part of a future rate change proceeding.

Sincerely,

A handwritten signature in dark ink, appearing to read "M. Sheehan", written in a cursive style.

Michael J. Sheehan

Enclosures

Cc: Service List