

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 22-041

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

**Petition for Approval to Recover
Revenue Decoupling Adjustment Factor Costs**

COMMENCEMENT OF ADJUDICATIVE PROCEEDING AND NOTICE OF HEARING

On July 6, 2022, Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty (Liberty or the Company) filed a request to recover approximately \$4 million that it maintains was incorrectly returned to customers due to an error in the tariff implementing its revenue decoupling mechanism (RDM) from 2018 through 2020. In support of its petition, Liberty pre-filed the testimony of Erica L. Menard, Director of Rates and Regulatory Affairs for Liberty Utilities Service Corp., and related attachments. The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are available on the Commission's website at www.puc.nh.gov/regulatory/Docketbk/2022/22-041.html.

I. BACKGROUND AND PROCEDURAL HISTORY

In Order No. 26,122 (April 27, 2018), the Commission approved a settlement agreement allowing Liberty to implement an RDM beginning on November 1, 2018. *Id.* at 45-46. As explained in Ms. Menard's pre-filed testimony, the RDM "decouples" Liberty's revenues from the quantity of gas sold. Direct Testimony of Erica L. Menard, July 5, 2022 (Menard Testimony), at Bates page 0006, n.1. Doing so removes the Company's disincentive to promote energy conservation that is inherent in traditional ratemaking. Order No. 26,122 at 43.

Pursuant to the RDM, Liberty establishes a revenue per customer target for each rate class, or “allowed” revenue targets. Menard Testimony at Bates page 0006. Ms. Menard stated that the allowed revenue targets are then reconciled annually with the actual revenues collected from customers in each respective rate class, with the difference either collected from, or refunded to, Liberty’s customers through a revenue decoupling adjustment factor (RDAF) beginning on November 1 of the following year. *Id.* at Bates pages 0006 and 0030.

Liberty asserted in its petition, supported by the pre-filed testimony of Ms. Menard, that the initial RDM tariff improperly compared the allowed revenue target for the low-income R-4 rate class, which has discounted rates, with the higher actual revenues collected from the R-3 rate class, which does not have discounted rates. Petition (Pet.), ¶3; Menard Testimony at Bates pages 0007-0009. As a result, the Company claimed it appeared that actual revenues from the R-4 class exceeded allowed the revenue targets for that rate class from 2018 through 2020, the period in which this tariff was in effect, so that approximately \$4 million was incorrectly returned to customers. Pet., ¶s 3, 5 and 8; Menard Testimony at Bates pages 0007-0010. Liberty stated that the relevant tariff language was corrected in Docket No. DG 20-105, the Company’s most recent rate case. Pet., ¶6.

Liberty requested the Commission’s authorization to recover, through the RDAF, the amount of \$4,023,830 that it maintained was erroneously returned to customers. Pet., ¶ 17. Liberty proposed collecting this amount over two years, beginning November 1, 2022. *Id.*

The Office of the Consumer Advocate (OCA) filed a letter of participation on July 6, 2022, along with a motion to dismiss Liberty’s petition with prejudice. On July 15, 2022, Liberty filed an objection to the OCA’s motion. The New Hampshire Department

of Energy filed its appearance in this docket on August 1, 2022, but did not respond to the motion to dismiss. On this date, the Commission issued Order No. 26,677 denying the OCA's motion to dismiss.

II. ISSUES PRESENTED

The filing presents, *inter alia*, the following issues: whether Liberty is entitled to recover amounts refunded from 2018 through 2020 pursuant to its application of an approved RDM tariff in effect at the time the refunds were made; and whether Liberty has appropriately calculated the amounts it claimed were improperly refunded to customers through the RDM from 2018 through 2020. Accordingly, an adjudicative proceeding will be convened to address these issues.

The Commission will be conducting any hearings scheduled in this matter in person. The Commission will consider requests to conduct hearings using a hybrid format to permit remote participation by a specific individual only if the Commission has determined that a sufficient reason has been provided for why that individual would be unable to attend in person. Any party requesting that a specific individual be permitted to participate remotely should file a written request with the Commission's Clerk's Office no later than fifteen (15) days prior to the hearing date. If the Commission determines that one or more individuals will be permitted to appear remotely, then individuals in the Commission's hearing room, including the Commissioners, will be broadcast on a web-enabled platform.

Based upon the foregoing, it is hereby

ORDERED, that an adjudicative proceeding be commenced for the purpose of reviewing and resolving the foregoing issues pursuant to RSA chapter 541-A and the Commission's procedural rules; and it is

FURTHER ORDERED, that the Commission will hold a prehearing conference, pursuant to N.H. Admin. R., Puc 203.15, at its offices located at 21 S. Fruit St., Suite 10, Concord, New Hampshire, on September 27, 2022, at 9:00 a.m., at which each party should be prepared to address any of the issues set forth in N.H. Admin. R., Puc 203.15; and it is

FURTHER ORDERED, that during the prehearing conference, the Commission will consider the matters listed in Puc 203.15(c) and (d), including the establishment of a procedural schedule governing the remainder of the proceeding. Parties and potential parties are encouraged to facilitate the development of a procedural schedule by conferring prior to the prehearing conference, so that the presiding officer can address any matters on which there is disagreement during the prehearing conference. Any procedural schedule, however, will not be approved until after the prehearing conference and after consulting the Commission's calendar; and it is

FURTHER ORDERED, that, immediately following the prehearing conference, Liberty shall make appropriate personnel available for the parties to hold a technical session to review the filing; and it is

FURTHER ORDERED, that any entity or individual may petition to intervene and seek to be admitted as a party in this proceeding. Each party has the right to have an attorney represent the party at the party's own expense; and it is,

FURTHER ORDERED, that, consistent with N.H. Admin. R., Puc 203.17 and Puc 203.02, any entity or individual seeking to intervene in the proceeding shall file with the Commission a petition to intervene with copies sent to Liberty and any other parties on the service list, on or before September 16, 2022. The petition shall state the facts demonstrating how the petitioner's rights, duties, privileges, immunities, or

other substantial interests may be affected by the proceeding, consistent with N.H. Admin. R., Puc 203.17; and it is

FURTHER ORDERED, that any party objecting to a petition to intervene make said objection on or before September 26, 2022; and it is

FURTHER ORDERED, that parties shall file any proposed exhibits, written testimony, motions, or other documents intended to become part of the record in this proceeding with the Commission. Pursuant to the secretarial letter issued on March 17, 2020, which is posted on the Commission's website at <https://www.puc.nh.gov/Regulatory/Secretarial%20Letters/20200317-SecLtr-Temp-Changes-in-Filing-Requirements.pdf>, all Commission rules requiring the filing of paper copies are suspended until further notice. Parties may elect to submit any filing in electronic form unless otherwise ordered by the Commission. Filings will be considered filed as of the time the electronic copy is received by the Commission; and it is

FURTHER ORDERED, that routine procedural inquiries may be made by contacting the Commission's Clerk's Office at (603) 271-2431 or ClerksOffice@puc.nh.gov. All requests to the Commission should be made in a written pleading filed with the Commission. Unless otherwise authorized by law, *ex parte* communications are prohibited; and it is

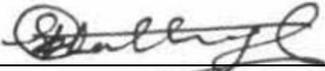
FURTHER ORDERED, that pursuant to N.H. Admin. R., Puc 203.12, Liberty shall notify all entities and individuals desiring to be heard at this hearing by publishing a copy of this order of notice in a newspaper with general circulation in those portions of the state in which it conducts natural gas operations no later than September 9, 2022, such publication to be documented by affidavit filed with the Commission on or before September 19, 2022. In addition, the Clerk shall publish this

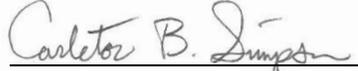
order of notice on the Commission's website no later than two business days after the date of issue; and it is

FURTHER ORDERED, that any hearings in this matter shall be conducted in accordance with the attached hearing guidelines.

So ordered, this sixth day of September, 2022.


Daniel C. Goldner
Chairman


Pradip K. Chattopadhyay
Commissioner


Carleton B. Simpson
Commissioner

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability should contact the NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.

Service List - Docket Related

Docket# : 22-041

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