

THE STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION
DG 22-045

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

Winter 2022/2023 Cost of Gas
Summer 2023 Cost of Gas

THE DEPARTMENT OF ENERGY’S MOTION IN SUPPORT OF
LIBERTY’S PROPOSAL TO CARVE OUT RDAF UNDERCOLLECTION AND GAS HOLDER
COSTS AND TO OMIT RELATED COST AMOUNTS FROM RATES PROPOSED TO BE
EFFECTIVE NOVEMBER 1, 2022

NOW COMES the Department of Energy (DOE), pursuant to New Hampshire Administrative Rule Puc 203.09, and files this motion in support of the proposal by Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty (“Liberty” or “the Company”) to carve out the RDAF under-collection and Gas Holder cost issues from the current procedural schedule for this proceeding. DOE further asks the Commission to omit the cost amounts associated with the carved-out issues from the rates Liberty proposes to be effective as of November 1, 2022. In support, DOE states as follows:

I. BACKGROUND

1. The requested carve-outs are for Liberty’s estimated revenue decoupling adjustment factor (RDAF) under-collection in this docket¹ and for costs associated with stabilizing the Concord Gas Holder that Liberty similarly seeks to recover. *See* Liberty’s September 1, 2022 cover letter (requesting carve-outs) filed with Liberty’s September 1 Supplemental [LDAC] filing (hereinafter “Liberty cover letter”); Liberty’s LDAC filing (August 2, 2022) (Testimony of Mary Casey on manufactured gas plant remediation, Bates Page 20-21, MGP Schedules 3 and RDAF Schedule 4); Liberty’s Supplemental LDAC

¹ The Company has stated that the RDAF under-collection identified herein is distinct from the RDAF matter at issue in Docket No. DG 22-041.

filing (September 1, 2022), Bates Page 004-006 (discussing proposed carve-outs) and Schedule 3; Liberty's Supplemental [RDAF] Data Responses filed September 8, 2022, included here as Attachment 1 (confidential excel spreadsheets sent under separate cover and not included here; separate data response treated as confidential out of an abundance of caution).

2. DOE continues to work with Liberty to gain a better understanding of the nature and amount of the RDAF under-collection. Unfortunately, DOE's efforts to obtain data request responses on RDAF issues from Liberty have been protracted.² Liberty did not provide responses to RDAF DR 1-4 until September 8, 2022, four weeks after DR responses were due. Liberty provided a response to DR 1-2 for RDAF on September 15, 2022.

3. In Liberty's September 8 responses, it significantly reduced the projected RDAF under-collection by approximately \$2 million (approximately \$1.3 million for residential customers and \$764,000 for C&I customers). *See* Attachment 1. DOE is reviewing these new amounts and related calculations and continues to have questions and concerns.

4. In addition, on or about August 8 and August 23, during discussions between Liberty and DOE regarding manufactured gas plant (MGP) and LDAC issues, the parties concluded that DOE did not have all the information necessary to review Liberty's proposed recovery of costs associated with preserving the Concord Gas Holder building. "Gas Holder and pond at Gas Street" (hereinafter "Gas Holder") costs

² On August 2, 2022, Liberty filed the local distribution adjustment clause (LDAC) portion of the Company's cost of gas rate proposal in this docket. On August 9, DOE filed Set One Data Requests (DRs), including detailed DRs 1-4 and 1-2 regarding RDAF. Responses were due on or before August 15. *See* Commission's Commencement of Adjudicative Proceeding and Notice of Hearing at 4 (August 24, 2022) (adopting the Company's proposed procedural schedule); DOE and Liberty Joint Report (December 27, 2021 in Docket No. DG 21-130).

DOE's DRs included two DRs specifically addressing Liberty's assertion that the RDAF was under-collected in the prior period, 2021-2022. Liberty identified the under-collection as approximately \$3.6 million for residential customers and \$841,000 for commercial and industrial ratepayers. *See* Direct Testimony of Catherine McNamara (filed August 2 2022), Bates 004, Schedule 4, Bates 086; Supplemental [LDAC] Testimony of Heather Tebbetts Bates 006 (filed September 2, 2022) (updating Schedule 4, Page 1, Lines 4 and 9 to reflect updated volumes forecast). DOE's RDAF DRs asked Liberty to verify, *inter alia*, why the RDAF under-collection was high, particularly for residential ratepayers, given that weather adjustments already occur on customer bills.

have been identified separately from other MPG remediation costs. See LDAC filing (August 2, 2022) Schedule 3; Supplemental [LDAC] Filing (September 1, 2022) Bates Page 004-006, Schedule 3.

II. LIBERTY PROPOSES THAT RDAF AND GAS HOLDER ISSUES BE CARVED OUT

5. On September 1, 2022, Liberty asked the Commission to “carve out” the RDAF under-collection at issue in this docket, due to its complexity and because Liberty asserts extra time is needed to investigate and verify the related cost amounts. *See* Liberty’s cover letter; Joint Report at 4 (December 27, 2021 in Dkt. No. 21-130) (Liberty to carve out complex issues). Liberty has also asked the Commission to carve out Gas Holder stabilization costs from the MGP component of Liberty’s LDAC because the costs are “different in nature” and the Company is “continuing to gather relevant information” which requires “extra analysis.” *See* Liberty cover letter.

6. The purpose of Liberty’s Supplemental LDAC filing included updating “various schedules that were identified as having incorrect calculations during the discovery phase of this proceeding;” however, as noted above, updated *RDAF* figures were not provided until September 8. *See* Tebbetts Supplemental [LDAC] Testimony (filed September 1) Bates Page 004-06, and 006 n.2; Attachment 1.

7. In its Supplemental [LDAC] Testimony, Liberty stated that it was amenable to “review[ing] the costs associated with stabilization of the Concord Gas Holder and the [RDAF under-collection] on separate and extended timeline[s] to allow for further discovery and hearings on those costs.” *Id.* at 004.

8. Notwithstanding those requests, Liberty has not proposed to omit the costs amounts associated with the “carved out” RDAF issue from the calculation of rates that it proposes be made effective as of November 1, 2022. Neither has Liberty omitted costs associated with the Concord Gas Holder, but it seems to propose omitting them prior to the hearing. *See* Tebbetts Supplemental [LDAC] Testimony Bates Page 006 n. 2 (if the Commission carves out the RDAF under-collection, “the Company may still seek approval of the RDAF as filed, with any changes arising from the subsequent hearing being implemented then”); Bates Page 006 n.1 (if the Commission carves out the Gas Holder costs, “the Company will seek approval of the \$0.0074 per therm MGP rate for November 1, 2022, and will seek the

additional \$0.004 per therm rate at that subsequent hearing”); Schedule 3 Bates Page 019 (\$0.004 per therm rate proposed by Liberty as Gas Holder costs).

III. THE CARVED-OUT COST AMOUNTS SHOULD BE OMITTED FROM RATES PROPOSED TO BE EFFECTIVE NOVEMBER 1

9. Given the uncertainty associated with the RDAF under-collection and the Gas Holder issues, the related cost amounts should be omitted from the rates Liberty proposes to be effective as of November 1, 2022. It is near certain that the remaining time is sufficient to resolve the RDAF under-collection issue; the claimed under-collection amount is significant, and several other cost of gas (COG) dockets must be simultaneously presented by the parties and adjudicated by the Commission with rates to be effective on November 1, 2022. In addition, COG dockets move quickly, and the Commission has directed the parties to file exhibits on or before October 18, 2022. With regard to the Gas Holder costs, to the best of DOE’s knowledge, available information remains insufficient.

10. If the cost amounts related to the carved-out issues are excluded from the November 1st rate adjustment, DOE proposes that, in the event the Commission ultimately finds a rate increase is warranted based upon future adjudication of the carve-out issues, a mid-season COG adjustment filing and brief hearing be held to make the necessary adjustments. In the alternative, the adjustments could be deferred and included in next year’s reconciliations.

11. For the above reasons, the Commission should grant Liberty’s requests to carve out the RDAF under-collection and Gas Holder cost issues, and direct that the related cost amounts be omitted from Liberty rates proposed to be effective as of November 1, 2022. DOE further requests that Liberty be directed to make an updated COG filing omitting those cost amounts no later than October 3, 2022.

WHEREFORE, the Department of Energy respectfully request that this honorable Commission:

- A. GRANT Liberty’s request to carve out the RDAF under-collection and Gas Holder cost issues for separate procedural tracks and separate resolutions in this docket at a later date;

- B. DIRECT Liberty to exclude any cost amounts related to the two issues to be carved-out from the rates Liberty proposes to be effective as of November 1, 2022;
- C. DIRECT Liberty to make an updated COG filing omitting those cost amounts no later than October 3, 2022; and
- D. GRANT such other and further relief as may be just and equitable.

Respectfully submitted,

September 20, 2022

/s/ Mary E. Schwarzer

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CERTIFICATE OF SERVICE

I hereby certify that on September 20, 2022, consistent with current Commission policy, a copy of the foregoing motion is being sent to the Service List solely in electronic format.

/s/ Mary E. Schwarzer

Mary E. Schwarzer
Staff Attorney/Hearings Examiner