STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DE 23-003

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

Proposed Purchase of Receivables Program

Order Adopting Report and Recommendation of Hearing Examiner Sarah Fuller, Esq. and Approving Revisions to the "Electric Supplier Services Master Agreement" (ESSMA) and "Electricity Delivery Service Tariff NHPUC No. 21" (Tariff)

O R D E R N O. 28,105

February 21, 2025

In this order, the Commission adopts the report and recommendations contained in Hearing Examiner Fuller's February 19, 2025 report and hereby APPROVES Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty (Liberty or the Company) proposed revisions to its "Electric Supplier Services Master Agreement" (ESSMA) and "Electricity Delivery Service Tariff NHPUC No. 21" (Tariff) and ORDERS Liberty to begin implementation as outlined in the Report.

I. BACKGROUND AND PROCEDURAL HISTORY

In 2021, HB 315 was enacted, which amended RSA chapter 53-E by, among other things, adding new section RSA 53-E:9, entitled "Billing Arrangements." RSA 53-E:9 required each electric distribution utility to propose a Payment of Receivables (POR) program for Commission review and approval in which the utility would pay the amounts due from customers to "suppliers" for electricity supply and related services less a discount percentage rate (DPR). Puc 2205.16(e) of the Commission's Chapter Puc 2200, "Municipal and County Aggregation Rules," required utilities to file their proposed POR programs within 90 days of the rules' October 12, 2022 effective date, or by January 10, 2023.

Liberty submitted its proposed POR program filing on January 10, 2023. The parties proposed Settlement Agreement on the POR program was approved by the Commission on August 16, 2024. *See* Order No. 27,047. Pursuant to Order No. 27,047, the proceeding was continued to a second phase to consider the Company's proposed revisions to its ESSMA and Tariff.

The Commission issued a supplemental order of notice on September 4, 2024 assigning a member of Commission staff, Sarah Fuller, Esq., as a hearing examiner pursuant to RSA 363:17. The hearing examiner was appointed to conduct the hearing, report the facts, and make recommendation to the Commission.

Liberty filed its proposed revisions to the ESSMA and Tariff on December 20, 2024 and indicated all parties agreed to the revisions. A hearing was held on January 29, 2025 presided over by Hearing Examiner Fuller. On February 19, 2025, the hearing examiner issued her report and recommendation (the Report), which recommends approval of the proposed revised ESSMA and Tariff.

Other than any information for which confidential treatment is requested of or granted by the Commission, all docket filings are available on the Commission's website at https://www.puc.nh.gov/Regulatory/Docketbk/2023/23-003.html.

A. DESCRIPTION OF THE PROPOSED ESSMA AND TARIFF AND IMPLEMENTATION

a. ESSMA

As discussed in Order No. 27,047, prior to implementation of the POR program, Liberty's Energy Service Supplier Agreement (ESSA)[1] for competitive electric power suppliers (CEPS) and Community Power Aggregators (CPAs) acting as load-serving

[1] In its testimony Liberty interchanges the terminology for ESSA and ESSMA. The Commission's understanding is that the terminology of ESSA and ESSMA refer to the same agreement that has be identified as Attachment 1 to Exhibit 6.

entities, needed to be revised. The revisions are necessary to incorporate POR as a condition of consolidated billing services. *See* September 24, 2024 Testimony of Robert Garcia at 7. Specifically, an entity seeking consolidated billing services must agree to sell Liberty its receivables at the applicable Discount Percentage Rate (DPR). The Tariff must also be revised to reflect the DPR. The ESSA is applicable to both CEPs and CPAs acting as load-serving entities in ISO New England. *See* Id. There are 16 different suppliers providing energy service to Liberty customers. *See* January 30, 2025 correspondence from Liberty.

Updates to the ESSA include:

1) Amending the current ESSA to include updated definitions for service terms applicable to consolidated billing;

2) Clarification that Liberty will utilize the Massachusetts Electronic Business Transactions (EBT) Working Group standards and guidelines for implementation. *See* January 9, 2025 Testimony of Robert Garcia at 5.; and

3) Clarification that as a condition of consolidated billing, suppliers must agree to sell to Liberty its receivables at the applicable DPR. *See* Id. at 6 and Hearing Exhibit 6 at 27.

Mr. Garcia testified that prior to implementing the POR program, Liberty requires their suppliers to return signed ESSA agreements. Liberty has developed implementation schedules, as described below, for two scenarios. First, a Tariff Effective Date (TED) envisioning that there are suppliers who fail to return the signed ESSA. Second, a TED envisioning that all suppliers have returned the signed ESSA.

b. Tariff

Tariff updates include:

1) Revisions and additions to the definitions;

2) Adding language to distinguish Default Energy Service Charge from CEPS and CPA service;
3) Updating terms and conditions for consolidated billing consistent with Order No. 27,047 including implementation of the DPR and the computation of the DRP.

4) Providing the framework for payment date computation; and

5) Inclusion of the annual filing requirements for recalculation of the DRP.

See Hearing Exhibit 6 at 67-94 for redline updates to the previously approved Tariff.

c. Proposed Implementation

The DPR is the sum of three percentage calculations, or components. Some of the discounted amounts are retained to recover implementation and ongoing administrative costs, which is reflected in the Administrative Cost Percentage (ACP) calculation. Other portions of the amounts retained reflect the fact that an Energy Service receivable is not worth its full face value, as Liberty will not recover the full amounts from customers on average (*i.e.*, uncollectible), which is reflected in the Uncollectible Percentage (UP) component of the DPR. Lastly, as the DPR is the product of a fully-reconciling cost recovery mechanism, a portion of the discounted amount will also reflect a true-up of the costs and write offs resulting from POR with discounted amounts previously taken, which is reflected in the Past Period Reconciliation Percentage (PPRP). As a reconciling factor, the PPRP may increase or decrease the DPR. Thus, the costs of the POR Program will be fully born by Suppliers and will not impact customers remaining on Liberty's default supply service. Liberty proposes to calculate and file an initial DPR to be applied to receivables purchased when the POR program launches within thirty days of the effective date of the tariff. *See* Hearing Exhibit 6 at 8-9.

Mr. Garcia outlined Liberty's initial proposal for implementation. The implementation timeline has three distinguishing features: (1) an existing Supplier that fails to return the ESSA by the deadline would be dropped as a Supplier; (2) it provides a two-week grace period to resolve any issues that can be addressed by Liberty immediately after the ESSA submittal deadline, after which the addition of any new customers by the Supplier would be suspended until the matter is rectified; and (3) it provides notice to customers that they will be returned to default supply service roughly two months before being returned. *See* Id at 13. With these features in place, the proposed effective date for the Tariff is the first day of the month following the commission's approval of the revised Tariff. Implementation would be as follows:

1) TED + 10 Days- Liberty will distribute the ESSA to Suppliers with proper notification as to what will happen if the agreements are not timely returned;

2) TED + 30 Days- Liberty will file its initial DPR and payment date for Commission approval;

3) TED + 40 days- Signed Supplier agreements are due back to Liberty;

4) TED + 54 days- Liberty begins notification to Suppliers who have failed to return updated ESSA.

5) TED + 68 days- Liberty will submit notifications to the customers of Suppliers not returning the signed ESSA that they will be returned to Liberty's default supply service during the monthly billing period preceding POR implementation. Suppliers can avoid Liberty submitting these customer notifications by returning a signed ESSA prior to their release, which provides Suppliers nearly a month to remedy its non-compliance with the tariff.

6) TED + 90 Days- Liberty anticipates having an approved DPR rate from the Commission;

7) TED + 120 Days- On or about this date, in order to align with the first day of the month, POR implementation would occur. Suppliers with a signed ESSA and their customers will be moved from Consolidated Billing Service to Consolidated Billing Service with POR;

8) TED + 165 Days- Liberty to comply with Puc 2205.05 and send the CPA's updated default service lists of customers so that new customers are given the option to "Opt-Out" of community power; and

9) TED + 180 days- Liberty pays Suppliers for any existing accounts receivable of customers billed through the Company's Consolidated Billing Service, at the applicable DPR. Per Section F of the Settlement Agreement, this payment is due 30 days within thirty days of POR implementation.

See Id at 17-18. Mr. Garcia confirmed that as soon as the revisions to the Tariff and the ESSMA are approved by the commission Liberty will calculate dates certain, rather than timeframe, for implementation. Furthermore, upon cross-examination from counsel for NRG Retail Companies, Mr. Garcia agreed that multiple steps in the implementation process could be omitted if all suppliers return the signed ESMA in a timely manner.

II. STANDARD OF REVIEW

The Commission is not bound by the recommendations of a hearing examiner appointed pursuant to RSA 363:17 in matters of fact or law. *N. New England Tel. Operations, LLC,* Order No. 25,538 at 5 (June 27, 2013). Although not submitted as a settlement agreement, the parties represented that the proposed amendments to the ESSMA and Tariff were agreed upon. Accordingly, the Commission is reviewing this proposal as it would a Settlement Agreement pursuant to Puc 204.10(b). Specifically, even when all parties have agreed, the Commission must independently determine whether the result complies with applicable standards. *Abenaki Water Co., Inc.,* Order No. 26,549 at 9 (November 12, 2021). The Commission must decide whether the proposal is consistent with applicable law and is just and reasonable and serves the public interest. *See* N.H. Admin. R., Puc 204.10(b).

III. COMMISSION ANALYSIS

RSA 53-E:9 requires utility POR programs to: (1) make timely payment of amounts due to Suppliers for electricity supply and related services less a DPR; (2) calculate the DPR to recover costs related to the POR program; and (3) periodically adjust the DPR, subject to the Commission's approval. Pursuant to RSA 53-E:9, I, Suppliers may include competitive electric power suppliers, such as CEPSs, if proposed by the utility and found by the Commission, after notice and hearing, to be for the public good.

After reviewing the Report, the Commission adopts the Hearing Examiner's recommendation to APPROVE the amendments to the ESSMA and Tariff. The second stage of this proceeding was necessary to provide details for the implementation of POR previously approved by the Commission in Order 27,047. The Commission finds that the parties' proposed revisions to the Tariff and ESSMA are based upon the record in this proceeding, that the proposed agreements and Tariff are the product of extensive and detailed negotiations involving all parties to this proceeding and address concerns offered by the parties represented to the Commission earlier on in this proceeding.[2] The Commission appreciates that all parties worked together to present revisions that are easy to understand and implement. The revisions to the ESSMA and Tariff provide clarity to the Company's suppliers and customers on the implementation of the POR program including how and when the DPR will be calculated.

Based upon the foregoing, it is hereby

ORDERED, the Report is ADOPTED; and it is

FURTHER ORDERED, that the revised ESSMA and Tariff are APPROVED; and it is

FURTHER ORDERED, Liberty shall file separate schedules for date certain implementation assuming in the first instance that 100 percent of suppliers <u>have not</u> timely returned updated, signed ESSA's by the deadline, or, in the alternative, that all supplier agreements <u>have</u> been returned by the deadline outlined; and it is

FURTHER ORDERED, that Liberty shall notify the Commission within 50 days after the Tariff effective date whether they are proceeding under schedule 1 (Supplier agreements are unsigned) or schedule 2 (all agreements have been signed and returned); and it is

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[2] Liberty's initial proposed revisions to the ESSMA and Tariff were filed on September 24, 2024. The DOE, CPCNH and NRG Retail Companies filed comments on the initial proposal. Subsequently, the parties worked together to revise the initial proposal. The assented to revised proposal was filed by Liberty on December 20, 2024.

FURTHER ORDERED, that Liberty shall file with the Commission its initial DPR and payment date for Commission Approval within 30 days after the Tariff effective date.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of February, 2025.

Daniel C. Goldner Chairman	Pradip K. Chattopadhyay Commissioner	Mark W. Dell'Orfano Commissioner

Service List - Docket Related

Docket#: 23-003

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