STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DE 23-003

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

Proposed Purchase of Receivables Program

Hearing Examiner Report of Sarah Fuller, Esq. Senior Advisor,
New Hampshire Public Utilities Commission

This Hearing Examiner Report is filed pursuant to my appointment, under the terms of RSA 363:17, as examiner by the Commission to hear the parties, report the facts, and make recommendations to the Commission. This appointment was presented in the September 4, 2024 supplemental order of notice issued by the Commission.

I. BACKGROUND OF PETITION AND OVERVIEW OF PHASE II PROCEEDING

Pursuant to RSA 53-E:9 and N.H. Code Admin. R. Puc chapter 2200, Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty (Liberty or the Company) filed its proposal for implementation of its purchase of receivables (POR) program on January 10, 2023. Subsequently, the Commission commenced an adjudicatory proceeding in this matter. The parties to this matter are Liberty; the New Hampshire Department of Energy (DOE); the Community Power Coalition of New Hampshire (CPCNH); and Direct Energy Services, LLC, Direct Energy Business, LLC, Direct Energy Business Marketing, LLC, Reliant Energy Northeast LLC, and XOOM Energy New Hampshire, LLC (together, the NRG Retail Companies).

The parties entered into a Settlement Agreement regarding the POR program. The Settlement Agreement 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 "Electric Supplier Services Master Agreement" (ESSMA) and "Electricity Delivery Service Tariff NHPUC No. 21" (Tariff).

On September 24, 2024 Liberty filed its proposed ESSMA and Tariff along with the prefiled testimony of Robert Garcia and Melyssa Flaherty. In response to the proposed ESSMA and Tariff, CPCNH, the DOE, and NRG Retail Companies filed comments. The parties requested additional time to reach a consensus on the ESSMA and Tariff. *See* October 15, 2024 Liberty Motion to Continue. On December 20, 2024, Liberty filed a revised ESSMA and Tariff and indicated that all parties agreed to the revisions. In support of the proposed ESSMA and Tariff, Liberty filed the revised testimony of Robert Garcia on January 9, 2025. The parties presented for final hearing on the proposed revised ESSMA and Tariff on January 29, 2025.

All docket filings, other than any information subject to confidential treatment, are available on the Commission's website at https://www.puc.nh.gov/regulatory/Docketbk/2023/23-003.html.

II. SUMMARY OF THE PROPOSED ESSMA AND TARIFF REVISIONS

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 entities needed to be revised. The revisions were necessary to incorporate the POR program 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

[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.

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 Charges 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 DPR.

4) Providing the framework for payment date computation; and

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

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

III. 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, POR implementation would occur, in order to align with the first day of the month. 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 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 definitive dates for implementation. Furthermore, upon cross-examination from counsel for NRG Retail Parties, Mr. Garcia agreed that multiple steps in the implementation process could be omitted if all suppliers return the signed ESSA in a timely manner.

IV. HEARING EXAMINER'S RECOMMENDATIONS TO THE COMMISSION

The Commission has previously approved the formula necessary to calculate the DPR. *See* Order No. 27,047. In order to implement the DPR, updates to the ESSMA and Tariff are necessary. The Company's initial proposal for its revised ESSMA and Tariff was met with general support from the parties; however, universal agreement was not reached until December 2024. *See* Liberty's October 15, 2024 Motion to Continue, Liberty's November 22, 2024 Status Report and Liberty's December 20, 2024 submission of its revised agreements with cover letter indicating all parties agreed to the proposed language.

The ESSMA is designed to outline the terms and conditions between the Company and its Suppliers. In this case, the updates needed surround the implementation of the POR program. Having reviewed the revised ESSMA and Tariff, I find that the documents enable Liberty to begin implementation of the POR program as outlined via Order No. 27,047. Liberty's TED timeframe provides detailed analysis of the steps necessary to effectuate the POR program. I RECOMMEND approval of the revised ESSMA and Tariff based on the agreement of all parties and the compelling testimony of Mr. Garcia. Furthermore, I recommend that the Commission require Liberty to supplement the TED schedule with dates certain upon receiving the order approving the proposed revisions. Specifically, Liberty shall provide separate TED schedules assuming that 1) suppliers have failed to return the signed ESSA or 2) all ESSA's have been returned to Liberty and implementation can commence upon approval of the DPR rate.

Hereby Submitted, February 19, 2025:

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Senior Advisor

Service List - Docket Related

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