



**OFFICE OF THE CONSUMER ADVOCATE**

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August 1, 2023

New Hampshire Public Utilities Commission  
21 South Fruit Street, Suite 10  
Concord, New Hampshire 03301

via e-mail to: [clerksoffice@puc.nh.gov](mailto:clerksoffice@puc.nh.gov)

Re: Docket No. DE 23-039  
Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty  
Request in Change in Distribution Rates

To the Commission:

My colleagues at the Department of Energy brought to my attention today that when the Office of the Consumer Advocate (“OCA”) circulated our first set of data requests in the above-referenced proceeding on July 27, 2023 we did not file a copy of these requests with the Commission. As the Commission is aware, the Puc 200 procedural rules do not require such filings but the prehearing conference order (tab 40), entered in this docket on June 30, does include such a directive, on page 4.

Accordingly, attached to this letter is a copy of our July 27 data requests, which we request be entered in the docket record of this proceeding as specified on page 4 of the prehearing order.

The OCA reserves the right to object to this ad hoc revision to the Commission’s procedural rules in the future. Although, obviously, data requests are less revealing of parties’ thinking than responses to data requests are, data requests are often nevertheless informative. That, obviously, is why the Commission is interested in seeing them. We are concerned that such glimpses into the analysis being conducted on an ongoing basis by parties may raise issues of due process and fundamental fairness by allowing the commission to be influenced by information that is material but not part of the evidentiary record. We are also concerned that requiring parties to file their data requests with the Commission may inhibit robust discovery inasmuch as parties often pose data requests that later prove to have been misguided, grounded in erroneous premises, or reflective of “trial balloons” that fail to fly (i.e., are not offered in rebuttal testimony or at hearing).

We continue to urge the Commission to address this issue – and the variety of other problems that have arisen in the wake of the creation of the Department of Energy two years ago along with the attendant restructuring of the Commission – via the formal rulemaking docket the commission opened last year for the purpose of revising the Puc 200 rules.

The above concerns notwithstanding, we remain eager to do what we can to assist the Commission in updating its procedures so as to assure that it has access to the information and insight it needs to meet the agency's statutory obligations and make excellent, fully informed decisions. Please contact me if there are any questions or concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read "DKreis", written in a cursive style.

Donald M. Kreis  
Consumer Advocate

Attachment

cc: Service list (via e-mail)